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No. 31] NEW DELHI, JULY 29—AUGUST 4, 2012, SATURDAY/SHRAVANA 7—SHRAVANA 13, 1934

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 25 जुलाई, 2012

का. आ. 2488.—केन्द्रीय सरकार एतद्वारा दण्ड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (2) सपठित जनरल क्लाजेज अधिनियम, 1897 (1897 का अधिनियम सं 10) की धारा 16 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिनांक 24-10-2011 की विभागीय अधिसूचना सं. 202/5/2011-एवीडी-II द्वारा जारी श्री राजेन्द्र रामकृष्णा मेन्धे, वकील की अनुबंध आधार पर केन्द्रीय अन्वेषण ब्यूरो में लोक अभियोजक के रूप में नियुक्ति को रद्द करती है।

[फा. सं. 202/5/2011-एवीडी-II (i)]
राजीव जैन, अवर सचिव (□-□□)

MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 25th July, 2012

S. O. 2488.—In exercise of the powers conferred by sub-section (2) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), r/w Section 16 of the General Clause Act, 1897 (Act no. 10 of 1897) the Central Government hereby cancel the appointment of

Shri Rajendra Ramkrishna Mendhe, Advocate as Public Prosecutor on contract basis in the Central Bureau of Investigation issued by this Department Notification No. 202/5/2011-AVD-II dated 24-10-2011.

[F. No. 202/5/2011-AVD-II (i)]

RAJIV JAIN, Under Secy. (V-II)

नई दिल्ली, 25 जुलाई, 2012

का. आ. 2489.—केन्द्रीय सरकार एतद्वारा दण्ड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (2) सपठित जनरल क्लाजेज अधिनियम, 1897 (1897 का अधिनियम सं 10) की धारा 16 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिनांक 24-10-2011 की विभागीय अधिसूचना सं. 202/5/2011-एवीडी-II द्वारा जारी श्री जसराज सिंह राजावत, वकील की अनुबंध आधार पर केन्द्रीय अन्वेषण ब्यूरो में लोक अभियोजक के रूप में नियुक्ति को रद्द करती है।

[फा. सं. 202/5/2011-एवीडी-II (ii)]
राजीव जैन, अवर सचिव (□-□□)

New Delhi, the 25th July, 2012

S.O. 2489.—In exercise of the powers conferred by sub-section (2) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), r/w section 16 of the General Clause Act, 1897 (Act no. 10 of 1897) the Central

Government hereby cancel the appointment of Shri Jasraj Singh Rajawat, Advocate as Public Prosecutor on contract basis in the Central Bureau of Investigation issued by this Department Notification No. 202/5/2011-AVD-II dated 24-10-2011.

[F.No. 202/5/2011-AVD-II (ii)]

RAJIV JAIN, Under Secy. (□-□□)

नई दिल्ली, 25 जुलाई, 2012

का. आ. 2490.—केन्द्रीय सरकार एतद्द्वारा दण्ड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (2) सपठित जनरल क्लाजेज अधिनियम, 1897 (1897 का अधिनियम सं 10) की धारा 16 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिनांक 24-10-2011 की विभागीय अधिसूचना सं. 202/5/2011-एवीडी-II द्वारा जारी श्री जगदीश प्रसाद मिश्रा, वकील की अनुबंध आधार पर केन्द्रीय अन्वेषण ब्यूरो में लोक अभियोजक के रूप में नियुक्ति को रद्द करती है।

[फा. सं. 202/5/2011-एवीडी-II (iii)]

राजीव जैन, अवर सचिव (□-□□)

New Delhi, the 25th July, 2012

S. O. 2490.—In exercise of the powers conferred by sub-section (2) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), r/w Section 16 of the General Clause Act, 1897 (Act no. 10 of 1897) the Central Government hereby cancel the appointment of Shri Jagdish Prasad Mishra, Advocate as Public Prosecutor on contract basis in the Central Bureau of Investigation issued by this Department Notification No. 202/5/2011-AVD-II dated 24-10-2011.

[F.No. 202/5/2011-AVD-II (iii)]

RAJIV JAIN, Under Secy. (□-□□)

कार्यालय मुख्य आयकर आयुक्त

जयपुर, 19 जुलाई, 2012

सं. 05/2012-13

का. आ. 2491.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43वां) की धारा 10 के खण्ड (23सी) की उप-धारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्द्वारा निर्धारण वर्ष 2012-13 एवं आगे के लिए कथित धारा के उद्देश्य से “श्री आदिनाथ जैन शिक्षण संस्थान, अलवर” को स्वीकृति देते हैं।

2. बशर्ते कि समिति आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23सी) की उप-धारा (vi) के प्रावधानों के अनुरूप कार्य करे।

[क्रमांक मुआआ/अआआ(मु)/जय/10(23सी)(vi)12-13/2177]

ब्रजेश गुप्ता, मुख्य आयकर आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX

Jaipur, the 19th July, 2012

(No. 05/2012-13)

S. O. 2491.—In exercise of the powers conferred by sub-clause (vi) of clause(23C) of Section 10 the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-Tax Rules, 1962, I, the Chief Commissioner of Income -Tax, Jaipur hereby approve “Shree Adinath Jain Shikshan, Sansthan, Alwar” for the purpose of the said section from A. Y. 2012-13 & onwards.

2. Provided that the society conforms to and complies with the provisions of sub-clause (vi) of, clause(23C) of Section 10 the Income-tax Act, 1961 read with rule 2CA of the Income-Tax Rules, 1962,

[No. CCIT/JPR/Addl.CIT(Hqrs.)/10(23C)(vi)/2012-13/2177]

BRIJESH GUPTA, Chief Commissioner of Income-tax

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 24 जुलाई, 2012

का. आ. 2492.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्द्वारा, घोषणा करती है कि उक्त अधिनियम की धारा 10 की उप-धारा (1) के खण्ड (ग) के उपखण्ड (i) के उपबंध यूनियन बैंक आफ इंडिया पर लागू नहीं होंगे, जहाँ तक उनका संबंध यूनियन बैंक आफ इंडिया के अध्यक्ष एवं प्रबंध निदेशक श्री डी. सरकार के यूनियन केबीसी आस्ति प्रबंधन कंपनी प्रा. लि. के निदेशक मण्डल में गैर कार्यपालक निदेशक तथा नामिति निदेशक के रूप में नामित होने से है।

[फा. सं. 13/1/2012-बीओ-I]

विजय मल्होत्रा, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 24th July, 2012

S. O. 2492.—In exercise of the powers conferred by sub-section (1) of Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Government of India on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-clause (i) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to Union Bank of India in so far as it relates to the nomination of Shri D. Sarkar, Chairman and Managing Director of the Bank as a Non-executive Chairman and

nominee director on Board of Union KBC Asset Management Co. Pvt. Ltd.

[F.No. 13/1/2012-BO-I]
VIJAY MALHOTRA, Under Secy.

विदेश मंत्रालय

(सीपीवी प्रभाग)

नई दिल्ली, 26 जुलाई, 2012

का. आ. 2493.—राजनयिक और कौंसलीय ऑफिसर (शपथ और फीस) के अधिनियम 1948 की धारा 2 के खंड (क) के अनुसरण में, केंद्र सरकार एतद्वारा श्री दाता राम कोटनाला, श्री प्रदीप पी. मेनन सहायक और श्री राम लाल, निम्न श्रेणी क्लर्क को 24-7-2012 से भारत के कौसलावास, दुबई में सहायक कौंसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है ।

[सं. टी. 4330/01/2006]

आर. के. पेरिन्डिया, अवर सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 26th July, 2012

S.O. 2493.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorize Shri Data Ram Kotnala, Shri Pradeep P. Menon, Assistants and Shri Ram Lal, LDC Consulate General of India, Dubai to perform their duties of Assistant Consular Officer with effect from 24th July, 2012.

[No. T. 4330/01/2006]

R. K. PERINDIA, Under Secy. (Consular)

विद्युत मंत्रालय

नई दिल्ली, 19 जुलाई, 2012

का.आ. 2494.—केंद्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र तारीख 6-12 जुलाई, 2008 को प्रकाशित, भारत सरकार के विद्युत मंत्रालय की अधिसूचना संख्यांक का.आ. 1738, तारीख 20 जून, 2008 को उन बातों के सिवाए अधिकांश करते हुए, जिन्हें ऐसे अधिक्रमण से पहले किया गया है या करने का लोप किया गया है, नीचे की सारणी के स्तंभ (1) में उल्लिखित नेशनल हाइड्रो पावर कारपोरेशन लिमिटेड (नेशनल हाइड्रो पावर कारपोरेशन के रूप में पहले ज्ञात) के अधिकारी को, जो सरकार के राजपत्रित अधिकारी की पंक्ति का समतुल्य अधिकारी है, उक्त अधिनियम के प्रयोजन के लिए संपदा अधिकारी नियुक्त करती है जो उक्त सारणी के स्तंभ (2) में विनिर्दिष्ट सरकारी स्थानों की बाबत अपनी

अधिकारिता की स्थानीय सीमाओं के भीतर उक्त अधिनियम द्वारा या उसके अधीन संपदा अधिकारी को प्रदत्त शक्तियों का प्रयोग करते हुए और अधिरोपित कर्तव्यों का पालन करेगा ।

अधिकारी का पदनाम

सरकारी स्थान के प्रवर्ग और अधिकारिता की स्थानीय सीमाएं

(1)

(2)

सिविल विभाग का प्रमुख,
उड़ी विद्युत केंद्र, जिंगल,
जिला: बारामूला जम्मू-
कश्मीर ।

तहसील उड़ी, जिला बारामूला
जम्मू-कश्मीर के घंटामूला,
बेलासालमाबाद, उरनबुआ,
मोहरा, बंदी लागमा, लारी,
नौग्राम, प्रिंगल चेहल, चामा,
शीरी, फतेगढ़, जोगियार,
हिलेरेड, देवरन, एथशैम्पूरा,
आजादपुरा, कंचन, निलेश,
बागना नुरखा, जिंगल राजरवानी
और बोनियार में अवस्थित
परियोजना क्षेत्र में उड़ी विद्युत
केंद्र से संबंधित या उस निमित्त
पट्टे पर लिए गए आवासिक,
गै-आवासिक वास सुविधा,
भूमि, भवन, सड़कें, संयंत्र
संरचनाएं ।

[फा. सं. 16/16/97-एनएचपीसी (डेस्क)]

एस. बेंजामिन, अवर सचिव

MINISTRY OF POWER

New Delhi, the 19th July, 2012

S.O. 2494.—In exercise of the powers conferred by Section 3 of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) and in supersession of the notification of the Government of India in the Ministry of Power, published in the Gazette of India, dated 6th-12th July, 2008 vide number S.O. 1738 dated the 20th June, 2008, except as respects things done or omitted to be done before such supersession, the Central Government hereby appoints the Officer of the National Hydro Power Corporation Limited. (formerly known as the National Hydro Power Corporation) mentioned in column (1) of the Table below, being officer equivalent to the rank of gazetted officer of the Government, to be estate officer for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on estate officer by or under the said Act, within the local limits of his jurisdiction in respect of public premises specified in column (2) of the said Table.

Designation of the Officer	Categories of Public premises and local limits of jurisdiction
(1)	(2)
Head of Civil Department Uri Power Station Gingle, Distt: Baramullah Jammu and Kashmir	Residential non-residential accommodation, land, building, roads, plants structures belonging to or taken on lease by or on behalf of Uri Power Station in the project area located at Ghantamulla, Belasalaamabad, Uranbua, Mohara, Bandi Lagama, Lari, Nowgram, Pringal Chehal, Kitchama, Sheery, Fategarh, Jogyar, Hillered, Dewaran, Aithshampora, Azadpora, Kanchan, Nilesh, Bagna Nurkha, Gingal, Rajarwani and Boniyar in Tehsil Uri, District Baramulla, Jammu and Kashmir.
	[F. No. 16/16/97-NHPC (Desk)] S. BENJAMIN, Under Secy.

वस्त्र मंत्रालय

नई दिल्ली, 26 जुलाई, 2012

का. आ. 2495.—केंद्रीय सरकार, संघ के शासकीय प्रयोजनों के लिए राजभाषा नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, वस्त्र मंत्रालय के अंतर्गत आने वाले निम्नलिखित कार्यालयों को जिसमें 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है :—

1. बुनकर सेवा केंद्र, मार्फत गुजरात राज्य खादी ग्रामोद्योग भवन कैंपस, जुना वाडज, आश्रम रोड, अहमदाबाद-380013 (गुजरात)
2. भारतीय हथकरघा प्रौद्योगिकी संस्थान, पंचायती कालेज कैंपस, बारगढ़- 768028 (उड़ीसा)
3. भारतीय कपास निगम लि., शाखा कार्यालय, 8/177, त्रिची रोड, पी.बी.नं. 7103, रामनाथपुरम, कोयम्बतूर-641045 (तमिलनाडु)।
4. पी2 मूल बीज फार्म, रारेबीसं, केंद्रीय रेशम बोर्ड, पल्लत्तेरी डाक, पालक्काड-678007 (केरल)
5. रेशमकीट बीज उत्पादन केंद्र, रारेबीसं, केंद्रीय रेशम बोर्ड, 1/640, परट्टयाल, कोटम्बु डाक, पालक्काड-678551 (केरल)

[सं. ई.11016/1/2011-हिन्दी]

सुनयना तोमर, संयुक्त सचिव

MINISTRY OF TEXTILES

New Delhi, the 26th July, 2012

S. O. 2495.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for the Official Purposes of the Union) Rules, 1976, the Central Government hereby

notifies the following offices of the Ministry of Textiles, more 80% staff whereof have acquired the working knowledge of Hindi :—

1. Weavers' Service Centre, Office of Development Commissioner (Handlooms), C/o Gujarat State Khadi Gramodyog Bhavan Campus, Juna Vadaj, Ashram Road, Ahmedabad-380013 (Gujarat).
2. Indian Institute of Handloom Technology, Panchayati College Campus, Bargarh-768028 (Orissa)
3. Cotton Corporation of India Ltd. Branch Office, 8/177, Trichi Road, P.B. No. 7103, Ramnathpuram, Coimbatore-641045 (Tamilnadu).
4. P2 Basic Seed Farm, NSSO, Central Silk Board, Pallatheri Post, Palakkad-678007 (Kerala)
5. Silkworm Seed Production Centre, NSSO, Central Silk Board, 1/640, Erattayal, Kodumbu Post, Palakkad-678551 (Kerala)

[No. E. 11016/1/2011-Hindi]

SUNAINA TOMAR, Jt. Secy.

कृषि मंत्रालय

(कृषि एवं सहकारिता विभाग)

नई दिल्ली, 18 जुलाई, 2012

का.आ. 2496.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, कृषि एवं सहकारिता विभाग, कृषि मंत्रालय के सम्बद्ध कार्यालय विपणन एवं निरीक्षण निदेशालय, फरीदाबाद के अंतर्गत निम्नलिखित प्रशासनिक नियंत्रणाधीन कार्यालया को जिसके 80% कर्मचारी वृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

विपणन एवं निरीक्षण निदेशालय,
उप कार्यालय, ए.पी.एम.सी.
पंडरा, रांची-5 (झारखंड)

[सं. 3-3/2011-हि.नी.]

उमा गोयल, संयुक्त सचिव

MINISTRY OF AGRICULTURE

(Department of Agriculture and Cooperation)

New Delhi, the 18th July, 2012

S. O. 2496.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies following office which is under the administrative control of the Directorate of Marketing and Inspection, Faridabad an attached office of the Department of the Agriculture & Cooperation, Ministry of Agriculture where 80% Staff have acquired the working knowledge of Hindi :—

1. Directorate of Marketing and Inspection,
Sub Office, A.P.M.C.
Pandara, Ranchi-5 (Jharkhand)

[No. 3-3/2011-Hindi Neeti]

UMA GOEL, Jt. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

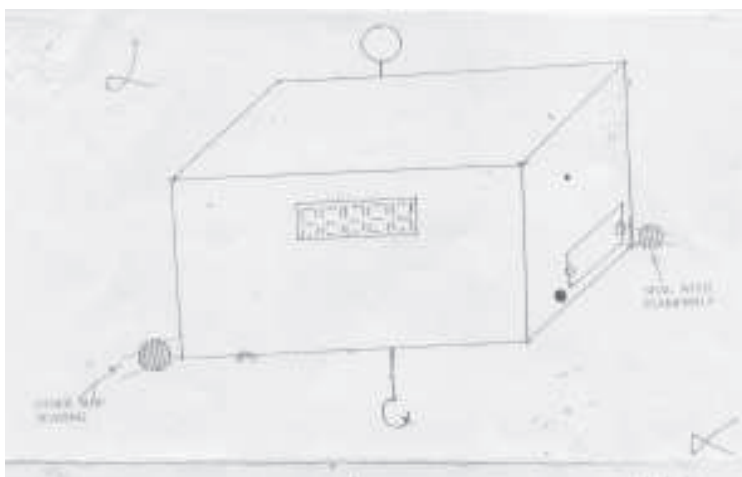
(उपभोक्ता मामले विभाग)

नई दिल्ली, 12 जुलाई, 2012

का.आ. 2497.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976(1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मगनलाल गोविन्दजी इलेक्ट्रॉनिक्स, बी-68, गिरीवर के सामने शकुंतला फ्लेट्स, रामवाडी टेकड़ा, इसानपुर अहमदाबाद-380008 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एमजीसी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (क्रोन टाइप) के मॉडल का, जिसके ब्राण्ड का नाम “मगनलाल गोविन्दजी इलेक्ट्रॉनिक्स” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/121 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (क्रोन टाइप) है। इसकी अधिकतम क्षमता 5000 कि. ग्रा. और न्यूनतम क्षमता 10 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) 500 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

**आकृति-2 मॉडल के इंडीकेटर का सीलिंग प्रावधान**

स्केल की बाडी में से सीलिंग वायर निकाल कर डिस्पले की राइट साइड/लेफ्ट साइड में सीलिंग की जाती है। सील के साथ जुड़े दो छेदों में से सील वायर निकाली जाती है जो सील से जुड़ी है। मॉडल के सीलिंग प्रावधान का स्कीमवार डायग्राम ऊपर दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 30 टन तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^3 , 2×10^3 या 5×10^3 के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(59)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

New Delhi, the 12th July, 2012

S.O. 2497.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Crane type) with digital indication of Medium Accuracy (Accuracy Class -III) of Series “MGC” and with brand name “MAGANLAL GOVINDJI ELECTRONICS” (hereinafter referred to as the said Model), manufactured by M/s. Maganlal Govindji Electronics, B-68, Giriwar Opp. Shakuntla Flats, Ramwadi Tekra, Isanpur, Ahmedabad-380008 and which is assigned the approval mark IND/09/11/121;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Crane Type) with a maximum capacity of 5000kg. and minimum capacity of 10 kg. The verification scale interval (e) is 500g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing results. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

Figure-1

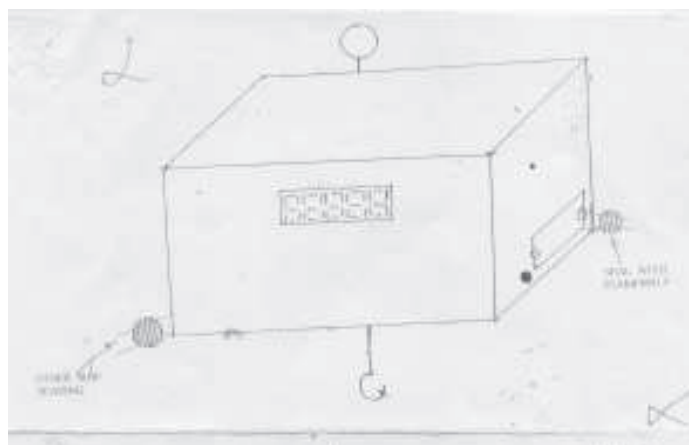


Figure-2 Sealing arrangement

Sealing is done on the right side/left side of the display by passing sealing wire from the body of the display. The seal is connected by seal wire is passing through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

The Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 30 tonne with verification scale interval (n) in the range of 500 to 10,000 for ‘e’ value of 5g. or more and with ‘e’ value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No.WM-21 (59)/2011]

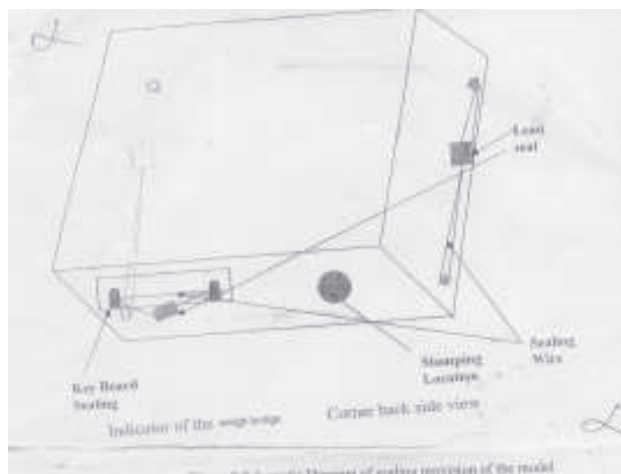
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 12 जुलाई, 2012

का.आ. 2498.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976(1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मगनलाल गोविन्दजी इलेक्ट्रॉनिक्स, बी-68, गिरीवर के सामने शकुंतला फ्लेट्स, रामवाडी टेकड़ा, इसानपुर अहमदाबाद-380 008 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एमजीई” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज) के मॉडल का, जिसके ब्राण्ड का नाम “मगनलाल गोविन्दजी इलेक्ट्रॉनिक्स” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/122 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज) है। इसकी अधिकतम क्षमता 60 टन है और न्यूनतम क्षमता 200 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 10 कि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले की राइट साइड/बैक साइड में सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 5 टन से 200 टन तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^3 , 2×10^3 या 5×10^3 के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(59)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th July, 2012

S.O. 2498.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Electronic Weighbridge) with digital indication of Medium Accuracy (Accuracy Class -III) of Series “MGE” and with brand name “MAGANLAL GOVINDJI ELECTRONICS” (hereinafter referred to as the said Model), manufactured by M/s. Maganlal Govindji Electronics, B-68, Giriwar Opp. Shakuntla Flats, Ramwadi Tekra, Isanpur, Ahmedabad-380008 and which is assigned the approval mark IND/09/11/122;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Electronic Weighbridge) with a maximum capacity of 60 tonne and minimum capacity of 200 kg. The verification scale interval (e) is 10kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

Figure-1

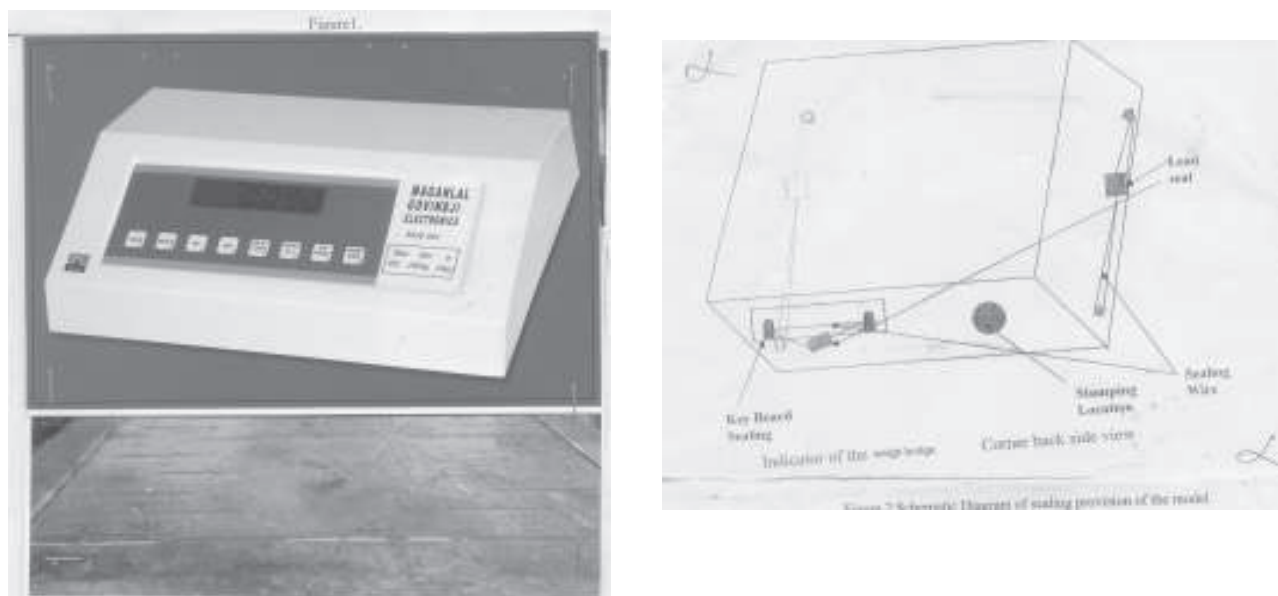


Figure-2 Schematic Diagram of sealing provision of the model

Sealing is done on the right side/back side of the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and up to 200 tonne with verification scale interval (n) in the range of 500 to 10,000 for ‘e’ value of 5g. or above and with ‘e’ value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No.WM-21 (59)/2011]

B. N. DIXIT, Director of Legal Metrology

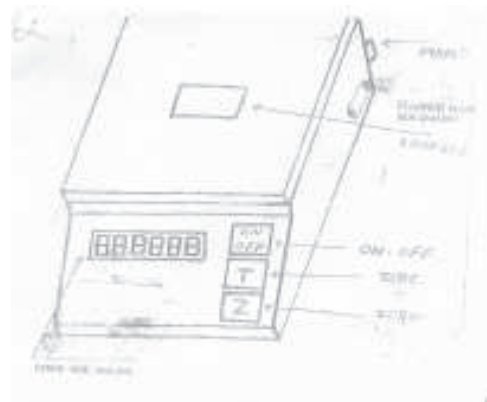
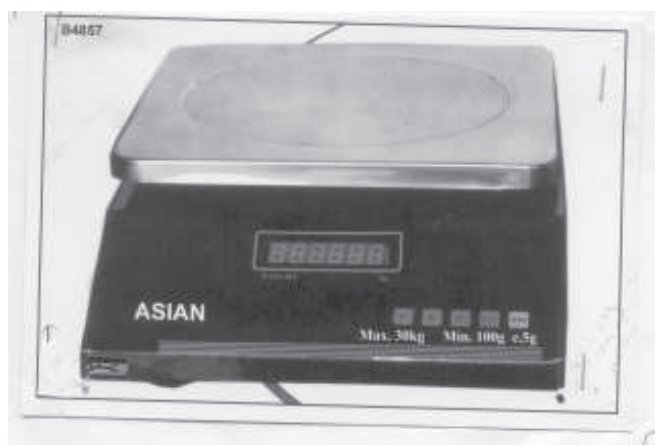
नई दिल्ली, 13 जुलाई, 2012

का.आ. 2499.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एशियन मैजरींग सिस्टम्स, बी/6, शास्त्री इंडस्ट्रियल एस्टेट, होटल जलपान के पास, भायंदर (ई), थाणे-401105 (महाराष्ट्र) द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एटी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप टाइप) के मॉडल का, जिसके ब्राण्ड का नाम “एशियन” है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/12/15 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टॉप टाइप) है। इसकी अधिकतम क्षमता 30 कि. ग्रा. है और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अन्तराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति -1



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक के “ई” मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान $1 \times 10^{\frac{1}{2}}$, $2 \times 10^{\frac{1}{2}}$, $5 \times 10^{\frac{1}{2}}$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(269)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 13th July, 2012

S.O. 2499.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of medium accuracy (accuracy class-III) of series “AT” and with brand name “ASIAN” (hereinafter referred to as the said model), manufactured by M/s. Asian Measuring Systems, B/6, Shastri Industrial Estate, Nr. Hotel Jalpan, Bhayander (E), Thane-401105 (MAH.) and which is assigned the approval mark IND/09/12/15;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100 g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

Figure-1

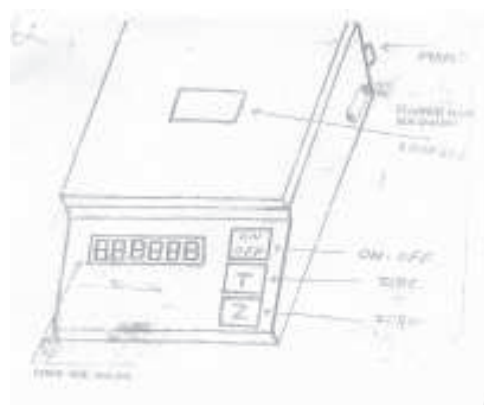
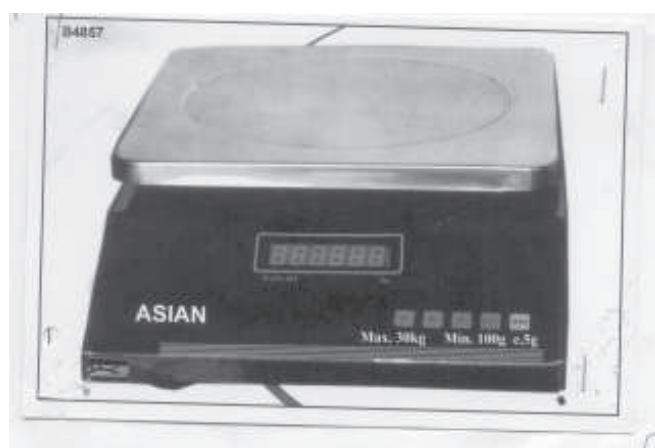


Figure-2 Schematic Diagram of sealing provision of the model

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, then seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg. to 2g. and with verification scale interval (n) in the range of 500 to 10000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[FNo.WM-21 (269)/2011]

B. N. DIXIT, Director of Legal Metrology

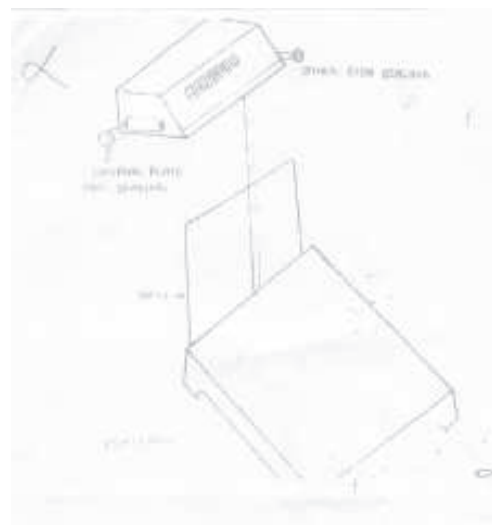
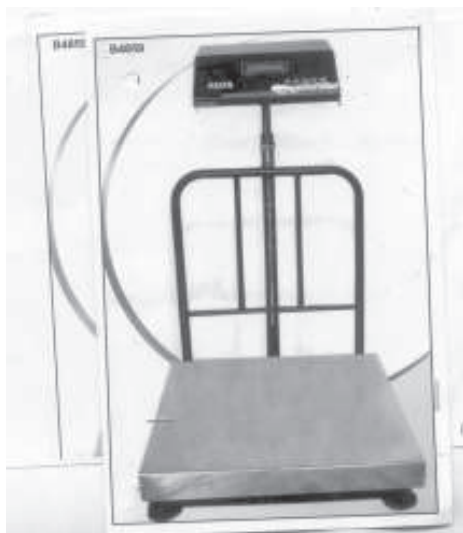
नई दिल्ली, 13 जुलाई, 2012

का.आ. 2500.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एशियन मैजिंग सिस्टम्स, बी/6, शास्त्री इंडस्ट्रियल एस्टेट, होटल जलपान के पास, भायंदर (ई), थाणे-401105 (महाराष्ट्र) द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एपी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्राण्ड का नाम “एशियन” है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/12/16 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 500 कि. ग्रा. है और न्यूनतम क्षमता 2 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) 100 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति -1



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. से 5000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^3 , 2×10^3 , 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(269)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 13th July, 2012

S.O. 2500.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of medium accuracy (accuracy class-III) of series “AP” and with brand name “ASIAN” (hereinafter referred to as the said model), manufactured by M/s. Asian Measuring Systems, B/6, Shastri Industrial Estate, Nr. Hotel Jalpan, Bhayander (E), Thane-401105 (MAH) and which is assigned the approval mark IND/09/12/16.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 500 kg and minimum capacity of 2 kg. The verification scale interval (e) is 100g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1

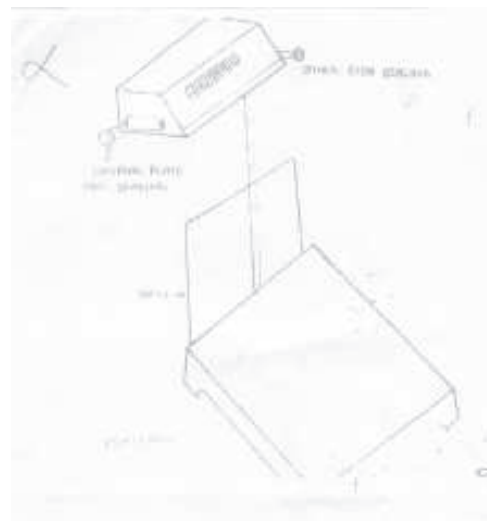
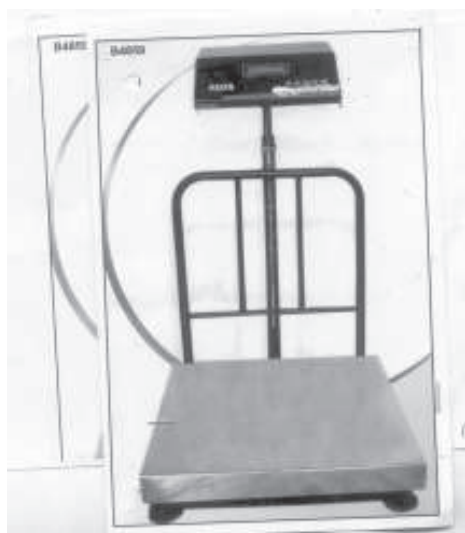


Figure-2 Schematic Diagram of sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, then seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 5000 kg. with verification scale interval (n) in the range of 500 to 10000 for ‘e’ value of 5g or more and with ‘e’ value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No.WM-21 (269)/2011]

B. N. DIXIT, Director of Legal Metrology

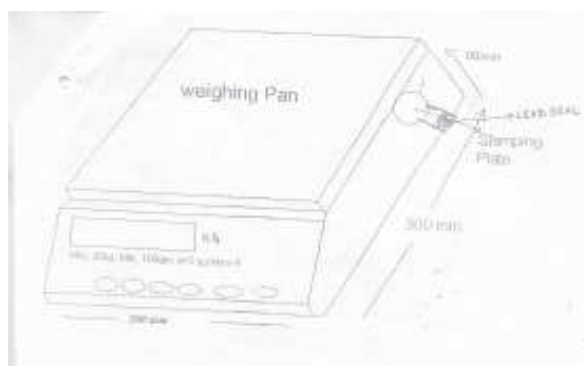
नई दिल्ली, 13 जुलाई, 2012

का.आ. 2501.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स प्रभात वेइंग स्केल, 1242-पी, सैक्टर-4, हुडा, रिवाड़ी (हरियाणा) द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग II) वाले “टीएलटी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप टाइप) के मॉडल का, जिसके ब्रांड का नाम “टी-लिब्रा” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/12/574 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टॉप टाइप) है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे। 1 मि.ग्रा. से 50 मि.ग्रा. तक के “ई” मान के लिए 100 से 100,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के “ई” मान के लिए 5000 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^3 , 2×10^3 , 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(297)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 13th July, 2012

S.O. 2501.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of high accuracy (accuracy class-II) of series “TLT” and with brand name “T-LIBRA” (hereinafter referred to as the said model), manufactured by M/s. Parbhat Weighing Scale, 1242-P, Sector-4, Huda, Rewari (Haryana) and which is assigned the approval mark IND/09/12/574.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure 1.

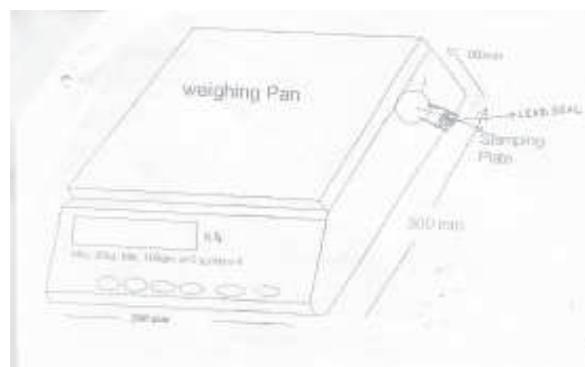


Figure-2—Schematic diagram of sealing provision of the model

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, then seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 100,000 for ‘e’ value of 1 mg. to 50 mg. and with verification scale interval (n) in the range of 5000 to 100,000 for ‘e’ value of 100 mg. or more and with ‘e’ value of 1×10^k , 2×10^k or 5×10^k , k where is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No. WM-21 (297)/2011]

B. N. DIXIT, Director of Legal Metrology

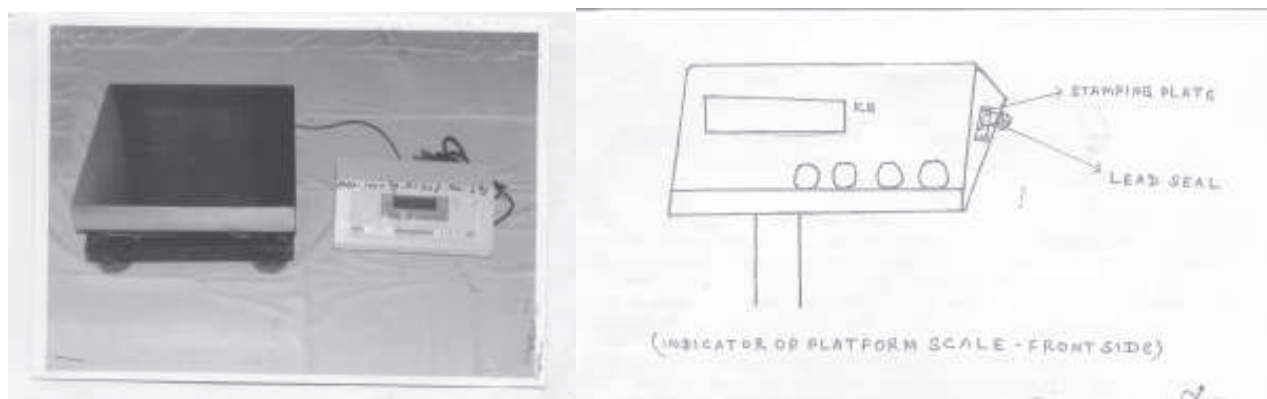
नई दिल्ली, 13 जुलाई, 2012

का.आ. 2502.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स प्रभात वेडिंग स्केल, 1242-पी, सैक्टर-4, हुडा रिवाड़ी (हरियाणा) द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले “टीएलपी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्रांड का नाम “टी-लिब्रा” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/12/575 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 2 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 100 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे। 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान $1 \times 10^{\text{कै}}$, $2 \times 10^{\text{कै}}$, $5 \times 10^{\text{कै}}$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(297)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 13th July, 2012

S.O. 2502.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sections 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of medium accuracy (accuracy class-III) of series “TLP” and with brand name “T-LIBRA” (hereinafter referred to as the said model), manufactured by M/s. Parbhat Weighing Scale, 1242-P, Sector-4, Huda, Rewari (Haryana) and which is assigned the approval mark IND/09/12/575.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000 kg. and minimum capacity of 2 kg. The verification scale interval (e) is 100g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure 1.

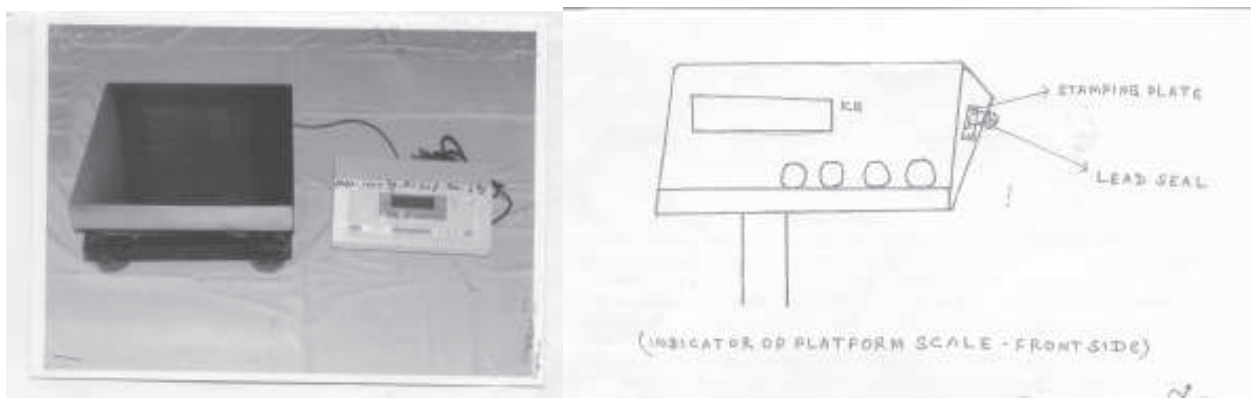


Figure-2—Schematic diagram of sealing provision of the model

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, then seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 5000 kg. with verification scale interval (n) in the range of 500 to 10,000 for ‘e’ value of 5g. or more and with ‘e’ value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No. WM-21 (297)/2011]

B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 23 जुलाई, 2012

का.आ. 2503.—केन्द्रीय सरकार का, फिजिकेलिक टेकनिक बुंडेसेन्स्टेन्ट द्वारा अनुमोदित मॉडल के लिए जारी किए गए अनुमोदन प्रमाण-पत्र के साथ प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 के दूसरे परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सी.बी.सी. एस.आर. एल केएम 190-एस.एस.75 सी.यू. जोना इंस्ट्रियल 06080-ओसपेडालीछीओ डी बासतीया डी उम्बरा (पीजी), इटली द्वारा विनिर्मित और बिना किसी बदलाव के भारत को निर्यात किए गए 'सीबीसी/ग्रांस अथवा सीबीसी/नेट' नामक आटोमैटिक ग्रेवीमीट्रिक फिलिंग यंत्र (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) जिसे मैसर्स आई सी ई (एशिया) लि. ब्रॉडवे सेन्टर तीसरा तल, डॉ. बी. अम्बेडकर रोड, दादर, टी.टी. मुंबई-400014 द्वारा भारत में आयात किया गया है और जिसे अनुमोदन चिन्ह आई एन डी/13/12/120 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल आटोमैटिक ग्रेवीमीट्रिक फिलिंग यंत्र जो कि मल्टी रेंज और मल्टी इंटरवल यंत्र भी है, को एक प्लेटफार्म अथवा हूपर स्केल के रूप में लीवर सहित या लीवर के बिना डिजाइन किया गया है। इस यंत्र की तकनीकी विशिष्टताएं निम्नलिखित हैं :

Max number of scale intervals (n) ≤ 6000 (static operation mode)

Range of tare balancing ≤ 100% of max

Preset tare range ≤ 100% of max or maxi with multi interval instruments respectively

Environmental conditions/influence factors- Temperature range -10°C to 40°C

Humidity up to 85% at 40°C, not condensing

Supply voltage 24V (18V ...30V), DC

Load cell excitation voltage 10V

Input signal range 0. 30m V/V

Smallest permissible input signal 1 μ V/scale interval

Load cell impedance range 35 Ω to 4480 Ω

Portion of error limit mpe $p_i = 0.5$

Load cell connection four or six wire system

The maximum number of load cell connectable depends on the impedance of the lead cells used. The resulting impedance of the lead cells shall not be smaller than 35 Ω (corresponding to 10 load cells at 350 Ω).

Depending on the scale interval (d), minimum fill (Minfill) and reference accuracy class X (x) of the automatic gravimetric filling instrument is :

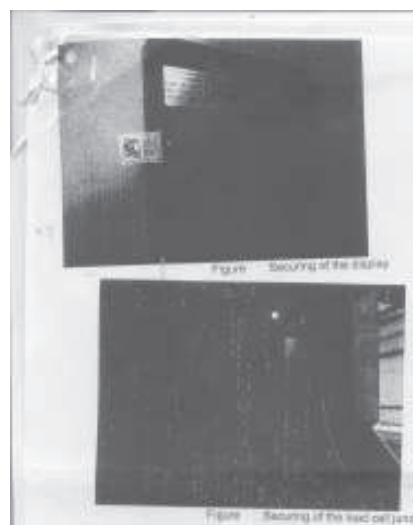
d (g)	Minfill (in g)			
	X(0.2)	X(0.5)	X(1)	X(2)
1	1600	320	107	27
2	3200	1280	30	106
5	8000	3200	1600	400
10	24000	6400	3200	1600
20	48000	19200	6400	3200
50	120000	48000	24000	8000
100	240000	96000	48000	24000
200	480000	192000	96000	48000
500	1200000	480000	240000	120000

These values apply for the smallest signal per scale of 1 μ V

d (g)	Minfill(in g)			
	X(0.2)	X(0.5)	X(1)	X(2)
1	400	107	27	13
2	1600	320	106	26
5	4000	1600	400	135
10	8000	3200	1600	400
20	24000	6400	3200	1600
50	60000	24000	8000	4000
100	120000	48000	24000	8000
200	240000	96000	48000	24000
500	600000	240000	120000	60000

These values apply for the smallest signal per scale of 2 μ V

मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम ऊपर दिया गया है।



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

New Delhi, the 23rd July, 2012

S.O. 2503 .—Whereas the Central Government, after considering the report submitted to it by the prescribed authority along with the model approval certificate issued by Physikalisch-Technische Bundesanstalt, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by the second proviso to section 22 of the Legal Metrology Act, 2009 (1 of 2010) and sub-rule (6) of rule 8 and sub-rule (4) of rule 1 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby approves, issues and publishes the certificate of approval of the automatic gravimetric filling instrument with type designation "CBC/GROSS or CBC/NET" (hereinafter referred to as the said model), manufactured and exported to India without any alteration by M/s. C.B.C s.r.l. Km, 190-S.S. 75 c.u.-Zona Industriale 06080- OSPEDALICCHIO DI BASTIA, UMBRA (PG), Italy and imported in India by M/s. ICE (Asia) Pvt. Ltd., Broadway Centre, 3rd Floor, Dr. B. Ambedkar Road, Dadar TT, Mumbai-400014 India and which is assigned the approval mark IND/13/12/120.

The said automatic gravimetric filling instrument also as multi range and multi-interval instrument, designed as platform or hopper scale, with OR without lever system. The technical specifications of the instrument are :

Max number of scale intervals (n) \leq 6000 (static operation mode)

Range of tare balancing \leq 100% of max

Preset tare range \leq 100% of max or maxi with multi interval instruments respectively

Environmental conditions/influence factors- Temperature range -10°C to 40°C

Humidity up to 85% at 40°C, not condensing

Supply voltage 24V (18V...30V), DC

Load cell excitation voltage 10V

Input signal range 0. 30m V/V

Smallest permissible input signal 1 μ V/scale interval

Load cell impedance range 35 Ω to 4480 Ω

Portion of error limit mpe $p_i = 0.5$

Load cell connection four or six wire system

The maximum number of load cell connectable depends on the impedance of the lead cells used. The resulting impedance of the lead cells shall not be smaller than 35 Ω (corresponding to 10 load cells at 350 Ω).

Depending on the scale interval (d), minimum fill (Minfill) and reference accuracy class X (x) of the automatic gravimetric filling instrument is :

d (g)	Minfill (in g)			
	X(0.2)	X(0.5)	X(1)	X(2)
1	1600	320	107	27
2	3200	1280	30	106
5	8000	3200	1600	400
10	24000	6400	3200	1600
20	48000	19200	6400	3200
50	120000	48000	24000	8000
100	240000	96000	48000	24000
200	480000	192000	96000	48000
500	1200000	480000	240000	120000

These values apply for the smallest signal per scale of 1 μ V

d (g)	Minfill (in g)			
	X(0.2)	X(0.5)	X(1)	X(2)
1	400	107	27	13
2	1600	320	106	26
5	4000	1600	400	135
10	8000	3200	1600	400
20	24000	6400	3200	1600
50	60000	24000	8000	4000
100	120000	48000	24000	8000
200	240000	96000	48000	24000
500	600000	240000	120000	60000

These values apply for the smallest signal per scale of 2 μ V

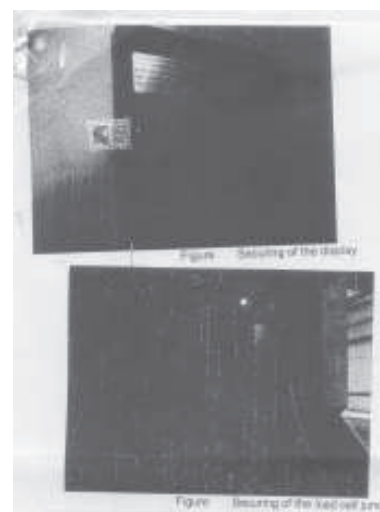


Figure
Figure 2 Schematic Diagram of sealing provision of the model

A typical schematic diagram. of sealing provision of the model is given above.

[F.No.WM-21(289)/2011]
B. N. DIXIT, Director of Legal Metrology

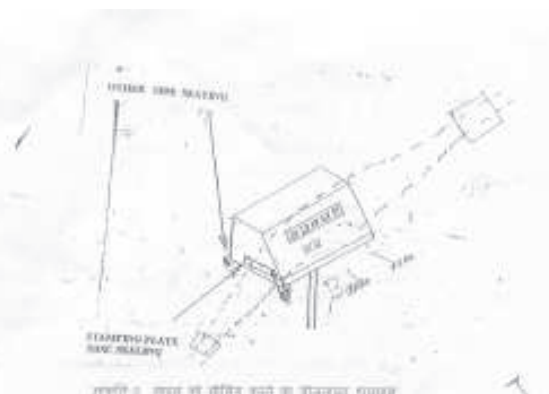
नई दिल्ली, 24 जुलाई, 2012

का.आ. 2504.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स श्री गोपाल इंटरनेशनल, 19/2/1, बाबूतला रोड, दमदम, कोलकाता-700074 द्वारा विनिर्मित (मध्यम यथार्थता (यथार्थता वर्ग III) वाले “एसजीआईडब्ल्यूबी-10” श्रृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज) के मॉडल का, जिसके ब्रांड का नाम “एसजीआई” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/12/119 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज) है। इसकी अधिकतम क्षमता 60 टन न्यूनतम क्षमता 200 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 10 कि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 5 टन से 200 टन तक की अधिकतम क्षमता वाले हैं और “ई” मान $1 \times 10^{\circ}$, $2 \times 10^{\circ}$, $5 \times 10^{\circ}$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(88)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th July, 2012

S.O. 2504.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sections 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (electronic weighbridge) with digital indication of medium accuracy (accuracy class-III) of series “SGIWB-10” and with brand name “SGI” (hereinafter referred to as the said model), manufactured by M/s. Shree Gopal International, 19/2/1, Babutala Road, Dumdum Kolkata-700074, West Bengal and which is assigned the approval mark IND/09/12/119.;

The said model is a strain gauge type load cell based non-automatic weighing instrument (electronic weighbridge) with a maximum capacity of 60 tonne and minimum capacity of 200kg. The verification scale interval (e) is 10 kg. It has a tare device with a 100 per cent subtractive retained tare effect. The light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure 1.

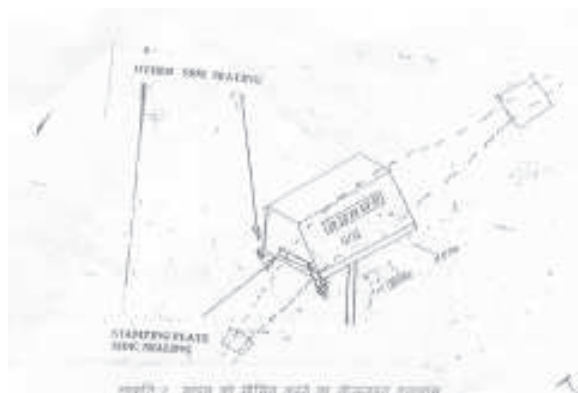


Figure-2—Schematic diagram of sealing provision of the model

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate & top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with capacity above 5 tonne and up to 200 tonne with verification scale interval (n) in the range of 500 to 10,000 for ‘e’ value of 5g. or more and with ‘e’ value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No. WM-21 (88)/2011]

B. N. DIXIT, Director of Legal Metrology

(भारतीय मानक ब्यूरो)

नई दिल्ली, 4 जुलाई, 2012

का.आ. 2505.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 302-2-30 : 2007 की संशोधन संख्या 1	1 मई, 2012	15-6-2012

इस भारतीय संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ : ईटी 32/टी-75]

आर. के. त्रेहन, वैज्ञानिक 'ई' एवं प्रमुख (विद्युत तकनीकी)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 4th July, 2012

S.O. 2505.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standard, particulars of which is given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. and year of the Amendment	Date from which the Amend- ment shall have effect
(1)	(2)	(3)	(4)
1.	IS 302-2-30 : 2007 Safety of household and similar electrical appliances, Part 2 : Particular requirements, Sec. 30 Room heaters	1 May, 2012	15-06-2012

Copy of this Amendment is available with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref : ET 32/T-75]

R. K. TREHAN, Scientist 'E' & Head (Electrotechnical)

नई दिल्ली, 12 जुलाई, 2012

का.आ. 2506.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 15910 : 2010 हाईवेज के लिये भूवस्त्रादि—विशिष्ट	—	31-05-2010

इस भारतीय मानक की प्रतियाँ, भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : टी एक्स डी/जी-25]

अनिल कुमार, वैज्ञानिक 'ई' एवं प्रमुख (टी एक्स डी)

New Delhi, the 12th July, 2012

S.O. 2506.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standard, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No., Title and Year of the Indian Standards	No. and year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
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(1)	(2)	(3)	(4)
1.	IS 15910 : 2010 Geo-Synthetics for Highways—Specification	—	31 May, 2010

Copy of this amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref : TXD/G-25]

ANIL KUMAR, Scientist 'E' & Head (TXD)

नई दिल्ली, 16 जुलाई, 2012

का.आ. 2507.—भारतीय मानक ब्यूरो नियम, 1987 के उपनियम (1) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये मानक (कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या एवं वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1931 : 2000 इंजीनियर्स फाइल्स--विशिष्ट (तीसरा पुनरीक्षण)	1	जनवरी, 2012
2.	आईएस 2324 (भाग 1) : 1985 आबद्ध अपघर्षी पवेण पहिए भाग 1 प्रोफाइल्स एवं प्रकार (दूसरा पुनरीक्षण)	3	जनवरी, 2012
3.	आईएस 6149 : 1984 सिंगल सिरे के खुले-जबड़े वाले समायोज्य रिंचों की विशिष्टि (पहला पुनरीक्षण)	2	जनवरी, 2012
4.	आईएस 8856 : 1991 षटकोणी वेल्ड ढिबरियाँ--विशिष्टि (पहला पुनरीक्षण)	1	जनवरी, 2012

इन भारतीय मानकों के संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : पीजीडी/जी-3.5]

एस. चौधरी, वैज्ञानिक 'एफ' एवं प्रमुख (पीजीडी)

New Delhi, the 16th July, 2012

S.O. 2507.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been amended on the date indicated against each :

SCHEDULE

Sl. No.	No. & Year of Indian Standards	No. and year of Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 1931 : 2000 Engineer's files—Specification (Third Revision)	1	January, 2012
2.	IS 2324 : (Part 1) : 1985 Bonded abrasive grinding wheels— Part 1 Profiles and types (Second Revision)	3	January, 2012
3.	IS 6149 : 1984 Specification for single-ended open-jaw adjustable wrenches (First Revision)	2	January, 2012
4.	IS 8856 : 1991 Hexagon weld nuts—Specification (First Revision)	1	January, 2012

Copy of these Amendments of Standards is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: PGD/G-3.5]

S. CHOWDHURY, Scientist 'F' & Head (PGD)

नई दिल्ली, 16 जुलाई, 2012

का.आ. 2508.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में एतद्वारा अधिसूचित किया जाता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिए हैं और वापस ले लिये गये हैं :

अनुसूची

क्रम संख्या	रद्द किये गये मानक की संख्या, वर्ष और शीर्षक	भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) में का.आ. संख्या और तिथि प्रकाशित	टिप्पणी
(1)	(2)	(3)	(4)
1.	आई एस 888 : 1983 हॉलो-ग्राउंड रेजर्स, ओपन टाईप की विशिष्टि (दूसरा पुनरीक्षण)	मार्च, 2012	यह मानक अप्रचलित है ।
2.	आई एस 15024 (भाग 1) : 2001 उत्पादों का तकनीकी प्रलेखन--कंप्यूटर आधारित तकनीकी सूचना का प्रहस्तन भाग 1 सुरक्षा अपेक्षाएँ	जनवरी, 2012	आईएस 15024 : 2011/ आईएसओ 11442 : 2006 द्वारा अतिक्रमित
3.	आई एस 15024 (भाग 2) : 2001 उत्पादों का तकनीकी प्रलेखन--कंप्यूटर आधारित तकनीकी सूचना का प्रहस्तन भाग 2 मूल प्रलेखन	जनवरी, 2012	आईएस 15024 : 2011/ आईएसओ 11442 : 2006 द्वारा अतिक्रमित

(1)	(2)	(3)	(4)
4.	आई एस 15024 (भाग 3) : 2001 उत्पादों का तकनीकी प्रलेखन-कंप्यूटर आधारित तकनीकी सूचना का प्रहस्तन भाग 3 उत्पाद डिजाइन प्रक्रिया के चरण	जनवरी, 2012	आईएस 15024 : 2011/ आईएसओ 11442 : 2006 द्वारा अतिक्रमित
5.	आई एस 15024 (भाग 4) : 2001 उत्पादों का तकनीकी प्रलेखन-कंप्यूटर आधारित तकनीकी सूचना का प्रहस्तन भाग 4 दस्तावेज प्रबंधन और पुनः प्राप्ति पद्धतियाँ	जनवरी, 2012	आईएस 15024 : 2011/ आईएसओ 11442 : 2006 द्वारा अतिक्रमित
6.	आई एस 15025 : 2001 उत्पादों का तकनीकी प्रलेखन--कंप्यूटर एडिड डिजाइन की अपेक्षाएँ तथा प्रारूपण-शब्दावली	जनवरी, 2012	आईएस 15024 : 2011/ आईएसओ 11442 : 2006 द्वारा अतिक्रमित

[संदर्भ : पीजीडी/जी-3.5]

एस. चौधरी, वैज्ञानिक 'एफ' एवं प्रमुख (पीजीडी)

New Delhi, the 16th July, 2012

S.O. 2508.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, it is, hereby notified that the Indian Standards, particulars of which are mentioned in the Schedule give hereafter, have been cancelled and stand withdrawn.

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Cancelled	S. O. No. & Date published in the Gazette of India, Part-II, Section-3, Sub-section (ii)	Remarks
(1)	(2)	(3)	(4)
1.	IS 888 : 1983 Specification for hollow-ground razors, open type (Second Revision)	March, 2012	It is obsolete
2.	IS 15024 (Part 1) : 2001 Technical product documentation—Handling of computer-based technical information—Part 1 Security requirements	January, 2012	Superseded by IS 15024 : 2011/ ISO 11442 : 2006
3.	IS 15024 (Part 2) : 2001 Technical product documentation—Handling of computer-based technical information—Part 2 Original documentation	January, 2012	Superseded by IS 15024 : 2011/ ISO 11442 : 2006
4.	IS 15024 (Part 3) : 2001 Technical product documentation—Handling of computer-based technical information—Part 3 Phases in the product design process	January, 2012	Superseded by IS 15024 : 2011/ ISO 11442 : 2006
5.	IS 15024 (Part 4) : 2001 Technical product documentation—Handling of computer-based technical information—Part 4 Document management and retrieval systems	January, 2012	Superseded by IS 15024 : 2011/ ISO 11442 : 2006

(1)	(2)	(3)	(4)
6.	IS 15025 : 2001 Technical product documentation—Requirements for computer-aided design and draughting-Vocabulary	January, 2012	Superseded by IS 15024 : 2011/ ISO 11442 : 2006

[Ref. PGD/G-3.5]

S. CHOWDHURY, Scientist 'F' & Head (PGD)

नई दिल्ली, 16 जुलाई, 2012

का.आ. 2509.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आईएस/आईएसओ 10823:2004 रोलर चैन ड्राईव के चयन हेतु दिशा-निर्देश	—	अगस्त 2011
2.	आईएस/आईएसओ 13567-2:1998 तकनीकी उत्पाद प्रलेखन-सी ए डी हेतु लेअर्स के संघटन एवं नामित भाग 2 निर्माण प्रलेखन में प्रयुक्त अवधारणा, फॉर्मेट एवं कोड	—	मार्च 2012
3.	आईएस/आईएसओ 14790:2005 स्नोबोर्ड प्लेट-बाइंडिंग्स-अपेक्षाएँ एवं परीक्षण पद्धतियाँ	—	अप्रैल 2012
4.	आईएस 15024:2011/आईएसओ 11442:2006 तकनीकी उत्पाद प्रलेखन-प्रलेख प्रबंधन (पहला पुनरीक्षण)	आईएस 15024 (भाग 1):2001 आईएस 15024 (भाग 2):2001 आईएस 15024 (भाग 3):2001 आईएस 15024 (भाग 4):2001 आईएस 15025:2011	अगस्त 2011
5.	आईएस/आईएसओ 15635:2001 लेपित अपघर्षक-फ्लैप डिस्क	—	मार्च 2012
6.	आईएस 15942:2011/आईएसओ 15785:2002 तकनीकी ड्राइंगें-आसंजक, फोल्ड एवं प्रैसड जोड़ों के सिम्बोलिक प्रस्तुतिकरण एवं संकेतन	—	अगस्त 2011
7.	आईएस/आईएसओ 21948:2001 लेपित अपघर्षक-सादी शीट	—	अप्रैल 2011
8.	आईएस/आईएसओ 21949:2001 लेपित अपघर्षक-धूल निष्कर्षण के लिए छिद्रों वाली सादी शीट	—	अप्रैल 2012
9.	आईएस/आईएसओ 21950:2001 लेपित अपघर्षक-प्लेन डिस्क	—	मार्च 2012
10.	आईएस/आईएसओ 21951:2001 लेपित अपघर्षक-धूल निष्कर्षण के लिए छिद्रों वाली सादी डिस्क	—	मार्च 2012

इन भारतीय मानकों की प्रतियाँ, भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : पीजीडी/जी-3.5]

एस. चौधरी, वैज्ञानिक 'एफ' एवं प्रमुख (पीजीडी)

New Delhi, the 16th July, 2012

S.O. 2509.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standard, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No., and Year of the Indian Standards Established	No. and year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS/ISO 10823:2004 Guidelines for the selection of roller chain drives	-	August 2011
2.	IS/ISO 13567-2:1998 Technical product documentation—Organization and naming of layers for CAD Part 2 Concepts, format and codes used in construction documentation	-	March 2012
3.	IS/ISO 14790:2005 Snowboard plate-bindings-Requirements and test methods	-	April 2012
4.	IS 15024:2011/ISO 11442:2006 Technical product documentation—Document management (<i>First Revision</i>)	IS 15024 (Part 1):2001 IS 15024 (Part 2):2001 IS 15024 (Part 3):2001 IS 15024 (Part 4):2001 IS 15025:2001	August 2011
5.	IS/ISO 15635:2001 Coated abrasives—Flap discs	-	March 2012
6.	IS 15942:2011/ISO 15785:2002 Technical drawings—Symbolic presentation and indication of adhesive, fold and pressed joints	-	August 2011
7.	IS/ISO 21948:2001 Coated abrasives—Plain sheets	-	August 2011
8.	IS/ISO 21949/2001 Coated abrasives—Plain sheets with holes for dust extraction	-	April 2012
9.	IS/ISO 21950:2001 Coated abrasives—Plain discs	-	March 2012
10.	IS/ISO 21951:2001 Coated abrasives—Plain discs with holes for dust extraction	-	March 2012

Copy of this amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref : PGD/G-3.5]

S. CHAUDHURY, Scientist 'E' & Head (PGD)

नई दिल्ली, 16 जुलाई, 2012

का.आ. 2510.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित गया है :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1885 (भाग 73) : 2012 विद्युत तकनीकी पारिभाषिक शब्दावली भाग 73 भौतिक एवं रसायन (पहला पुनरीक्षण)	आई एस 1885 (भाग 73/अनुभाग 1) : 1993 आई एस 1885 (भाग 73/अनुभाग 2) : 1993 आई एस 1885 (भाग 73/अनुभाग 3) : 1993	16-7-2012

इस भारतीय मानक की एक प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ : ईटी 01/टी-36]

आर. के. त्रेहन, वैज्ञानिक 'ई' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 16th July, 2012

S. O. 2510.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the Indian Standards to the Indian Standards, particulars of which is given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. and Year of the Indian Standard	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS/1885 (Part 73) : 2012 Electrotechnical Vocabulary Part 73 Physics and Chemistry (First Revision)	IS 1885 (Part 73/Sec 1) : 1993 IS 1885 (Part 73/Sec 2) : 1993 IS 1885 (Part 73/Sec 3) : 1993	16-7-2012

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref : ET 01/T-36]

R. K. TREHAN, Scientist 'E' & Head (Electrotechnical)

नई दिल्ली, 17 जुलाई, 2012

का.आ. 2511.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 13730 (भाग 0, अनुभाग 1) : 2012/ आईईसी 60317-0-6 : 2007 विशेष प्रकार की कुंडलण तारों की विशिष्टि, भाग 0 सामान्य अपेक्षाएं अनुभाग 6 कॉच तन्तु की क्षत रेजिन अथवा वार्निश संसेचित, नंगी अथवा अनेमलित गोल कॉपर की तार	—	17-7-2012

इस भारतीय मानक की एक प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, नागपुर, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 33/टी-114]

आर. के. त्रेहन, वैज्ञानिक 'ई' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 17th July, 2012

S.O. 2511.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the Indian Standards to the Indian Standards, particulars of which is given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. and Year of the Indian Standard	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 13730 (Part 0/Sec 6) : 2012/IEC 60317-0-6 : 2007 Specification for particular types of winding wires part 0 general requirements, Sec 6 Glass-fibre wound resin or varnish impregnated, bare or enamelled round copper wire	—	17-7-2012

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref : ET33/T-114]

R. K. TREHAN, Scientist 'E' & Head (Electrotechnical)

नई दिल्ली, 17 जुलाई, 2012

का.आ. 2512.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक(को) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संशोधित भारतीय मानक की संख्या और वर्ष सं.	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)
1. आई एस 12171 : 1999 रूई की गाठें- विशिष्ट (पहला पुनरीक्षण)	संशोधन संख्या 2 जुलाई 2012	31 जुलाई, 2012

इस संशोधन की प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ : टीएक्सडी/जी-25]

अनिल कुमार, वैज्ञानिक 'ई' एवं प्रमुख (टीएक्सडी)

New Delhi, the 17th July, 2012

S.O. 2512.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. Title and Year of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 12171 : 1999 Cotton Bales — specification (First Revision)	Amendment No. 2 July 2012	31 July, 2012

Copy of this amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: TXD/G-25]

ANIL KUMAR, Scientist 'E' & Head (TXD)

नई दिल्ली, 17 जुलाई, 2012

का. आ. 2513.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 10701 : 2012 स्ट्रक्चरल प्लाईवुड-विशिष्ट (पहला पुनरीक्षण)	आई एस 10701 : 1983	30-6-2012

इस भारतीय मानक की प्रति, भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीईडी/राजपत्र]

डी. के. अग्रवाल, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 17th July, 2012

S.O. 2513.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. and Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 10701:2012 Structural Plywood-Specification (First Revision)	IS 10701 : 1983	30-6-2012

Copy of this standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref : CED/Gazette]

D.K. AGRAWAL, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 17 जुलाई, 2012

का. आ. 2514.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 7634 (भाग 2) : 2012 पेयजल पूर्ति के लिए प्लास्टिक के पाइपों का चुनाव, प्रहस्तन, भण्डारण और संस्थापन-रीति संहिता	आई एस 7634 (भाग 2) : 1975	30-6-2012
2.	भाग 2 पोलिइथाईलीन पाइपों को बिछाना एवं जोड़ना (पहला पुनरीक्षण)		

इस भारतीय मानक की प्रति, भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीईडी/राजपत्र]

डी. के. अग्रवाल, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 17th July, 2012

S.O. 2514.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which is given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	No. & Year of Indian Standards, if any, Superseded by the New Indian Standards	Date of Established
(1)	(2)	(3)	(4)
1.	IS 7634 (Part 2) : 2012 Plastic Pipes Selection, Handling, Storage and Installation for Potable Water Supplies-Code of Practice Part 2 Laying and Jointing of Polyethylene (PE) Pipes (First Revision)	IS 7634 (Part 2) : 1975	30-06-2012

Copy of this standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref : CED/Gazette]

D. K. AGRAWAL, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 17 जुलाई, 2012

का.आ. 2515.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह/वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 13340 (भाग 2) : 2012 1000 वॉट तक एवं सहित वोल्टता रेटित धारक ए सी सिस्टम के स्वतः रोपी टाइप के शंट संधारित्र भाग 2 : काल प्रभावन परीक्षण, स्वतः रोपी परीक्षण एवं विनाशी परीक्षण (पहला पुनरीक्षण)	—	17-7-2012

इस भारतीय मानक की एक प्रति, भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 29/टी-16]

आर. के. त्रेहन, वैज्ञानिक 'ई' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 17th July, 2012

S.O. 2515.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the Indian Standards to the Indian standards, particulars of which is given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. & Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 13340 (Part 2) : 2012 Shunt Power Capacitors of the Self-healing type for A.C. Systems having a rated Voltage up to and including 1000 V Part 2 ageing test, self-healing test and destruction test (First Revision)	—	17-07-2012

Copy of this standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref : ET 29/T-16]

R. K. TREHAN, Scientist 'E' & Head (Electrotechnical)

कोयला मंत्रालय

नई दिल्ली, 31 जुलाई, 2012

का. आ. 2516.—केन्द्रीय सरकार को यह प्रकट होता है कि इससे उपाबद्ध अनुसूची में वर्णित भूमि में कोयला अभिप्राप्त किए जाने की संभावना है;

उक्त अनुसूची में वर्णित भूमि के अंतर्गत आने वाले क्षेत्र के ब्यौरे रेखांक संख्या ईसीएल/एसआईएमएल/एमओयूजेडए/एनओटीआई/07, तारीख 20 फरवरी, 2011 का निरीक्षण उपायुक्त, जिला पाकुड़ (झारखंड) के कार्यालय में या कोयला नियंत्रक, 1, कार्डसिल हाऊस स्ट्रीट, कोलाकात-700 001 के कार्यालय में या निदेशक तकनीकी (प्रचालन), ईस्टर्न कोलफील्ड्स लिमिटेड, सांकटोरिया, डाकघर-दिसैरगढ़, जिला-बर्द्वान (पश्चिम बंगाल), पिन कोड-713 333 के कार्यालय में किया जा सकता है;

अतः अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अनुसूची में वर्णित भूमि से कोयले का पूर्वोक्षण करने के अपने आशय की सूचना देती है;

उक्त अनुसूची में विहित भूमि में हितबद्ध कोई व्यक्ति, इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर, निदेशक तकनीकी (प्रचालन), ईस्टर्न कोलफील्ड्स लिमिटेड, सांकटोरिया, डाकघर-दिसैरगढ़, जिला-बर्द्वान (पश्चिम बंगाल), पिन कोड-713 333 के समक्ष—

- संपूर्ण भूमि या उसके किसी भाग के अर्जन या ऐसी भूमि में या उस पर के किन्हीं अधिकारों के प्रति आक्षेप कर सकेगा; या
- भूमि में के प्रतिकर में किसी हित का या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का दावा कर सकेगा; या
- प्रभावहीन हो गई पूर्वोक्षण अनुज्ञप्तियों, खनन पट्टों के अधीन अर्जित किये जाने पर अधिकारों के लिये प्रतिकर की मांग कर सकेगा और उक्त अधिनियम की धारा 13 की उप-धारा (7) में निर्दिष्ट भूमि के कोरों से संग्रहण या अन्य खनिज नमूनों तथा उनके सम्यक् विश्लेषण को तथा किसी अन्य सुसंगत अभिलेख या सामग्रियों की निर्मिति से संबंधित सभी मानचित्र, चार्टों और अन्य दस्तावेजों का परिदत्त कर सकेगा ।

अनुसूची
सिमलौंग कोल माइनिंग ब्लॉक (चरण-II)
जिला-पाकुड़ (झारखंड)

(रेखांक संख्या ईसीएल/एसआईएमएल/एमओयूजेडए/एनओटीआई/07 तारीख 20 फरवरी, 2011)

थाना-लिटटीपाड़ा					जिला-पाकुड़	
ब्लॉक सं.	क्र.सं.	मौजा/ग्राम	ग्राम संख्या	क्षेत्र हेक्टेयर में (लगभग)	क्षेत्र एकड़ में (लगभग)	टिप्पणियां
1	1.	बड़ा मुड़जोड़ा	3	27.572	68.13	भाग
	2.	सिमलौंग	4	45.722	112.98	भाग
	3.	सिमलौंग पहाड़	5	83.788	207.04	भाग
	4.	छोटा घाघरी	19	9.842	24.32	भाग
	5.	बड़ा घाघरी	20	77.475	191.44	भाग
			जोड़	244.399	603.91	
2	1.	सिमलौंग	4	5.302	13.10	भाग
			महा जोड़	249.701	617.01	

कोयला धारक क्षेत्र (अधिग्रहण और विकास) अधिनियम, 1957 की धारा 4(1) के अंतर्गत अधिसूचित किए जाने वाले क्षेत्र का सीमा वर्णन:

खण्ड-1 :

- ए1-ए2 यह रेखा मौजा सिमलौंग संख्या 4 की प्लॉट संख्या 307 के भीतरी बिन्दु ए1 से आरंभ होकर प्लॉट संख्या 309, 297, 296, 209 सड़क 201, 200, 219, 221, 220, 226, 227, 223, 247 को पार करती हुई प्लॉट संख्या 247 एवं 248 की सम्मिलित सीमा पर बिन्दु ए2 पर मिलती है ।
- ए2-ए3 यह रेखा मौजा सिमलौंग संख्या 4 की प्लॉट संख्या 247 एवं 248 की सम्मिलित सीमा पर बिन्दु ए2 से आरंभ होकर प्लॉट संख्या 248, 257, 128, 129, 130, 132, 174, 543 सड़क को पार करती हुई प्लॉट संख्या 559 के भीतरी बिन्दु ए3 पर मिलती है ।
- ए3-ए4 यह रेखा मौजा सिमलौंग संख्या 4 की प्लॉट संख्या 559 के भीतर से बिन्दु ए3 से आरंभ होकर प्लॉट संख्या 558 के भीतरी बिन्दु ए4 पर मिलती है ।
- ए4-ए5 यह रेखा मौजा सिमलौंग संख्या 4 की प्लॉट संख्या 558 के भीतर से बिन्दु ए4 से आरंभ होकर प्लॉट संख्या 543 सड़क 174, 132, 131, 128, 127, 126, 257, 248, 247, 249, 253, 255, 256, 257, 100, 98 को पार करती हुई प्लॉट संख्या 74 के भीतरी बिन्दु ए5 पर मिलती है ।
- ए5-ए6 यह रेखा मौजा सिमलौंग संख्या 4 की प्लॉट संख्या 74 की भीतर से आरंभ होकर प्लॉट संख्या 71, 72, 67, 68, 69, 48, 45, 44, 34, 35, 40, 38, 37, 39, सम्मिलित सीमा सिमलौंग संख्या 4 एवं बड़ा मुड़ जोड़ा संख्या 3 को पार करती हुई पुनः बड़ा मुड़ जोड़ा संख्या 3 की प्लॉट संख्या 356, 355, 359, 401, 411, 410, 420, 422, 423, 424 सड़क 425, 426, 450, 449, 454, 455 को पार करती हुई मौजा बड़ा मुड़ जोड़ा संख्या 3 की प्लॉट संख्या 448 के भीतरी बिन्दु ए6 पर मिलती है ।
- ए6-ए7 यह रेखा मौजा बड़ा मुड़ जोड़ा संख्या 3 की प्लॉट सं. 448 के भीतरी बिन्दु ए6 से आरंभ होकर प्लॉट संख्या 458, 459, 460, 464, 463, 432 सड़क को पार करती हुई, प्लॉट संख्या 775, 776, और 777 की उत्तरी-पूर्वी सीमा से गुजरती हुई तथा प्लॉट संख्या 778, 786, 787, 790, 822, 823, 824, 825, 827, 828, 831, 918, 917, 916, 915, 914, 920, 922 को पार करती हुई मौजा बड़ा मुड़ जोड़ा संख्या 3 एवं अमरभीटा संख्या 7 की सम्मिलित सीमा पर बिन्दु ए7 पर मिलती है ।
- ए7-ए8 यह रेखा मौजा बड़ा मुड़ जोड़ा संख्या 3 एवं अमरभीटा संख्या 7 की सम्मिलित सीमा पर बिन्दु ए7 से आरंभ होकर दोनों मौजा की सम्मिलित सीमा से गुजरती हुई मौजा बड़ा मुड़ जोड़ा संख्या 3, अमरभीटा संख्या 7 एवं सिमलौंग पहाड़ संख्या 5 की त्रिसंधि स्तंभ पर बिन्दु ए8 पर मिलती है ।

- ए8—ए9 यह रेखा मौजा बड़ा मुड़ जोड़ा संख्या 3 अमरभीटा संख्या 7 एवं सिमलौंग पहाड़ संख्या 5 की त्रिसंधि स्तंभ पर बिन्दु ए8 से आरंभ होकर मौजा अमरभीटा संख्या 7 एवं सिमलौंग पहाड़ संख्या 5 की सम्मिलित सीमा से गुजरती हुई, मौजा अमरभीटा संख्या 7 सिमलौंग पहाड़ संख्या 5 तथा तेतली संख्या 6 की त्रिसंधि स्तंभ पर बिन्दु ए9 पर मिलती है ।
- ए9—ए10 यह रेखा मौजा अमरभीटा संख्या 7, सिमलौंग पहाड़ संख्या 5 तथा तेतली संख्या 6 की त्रिसंधि स्तंभ पर बिन्दु ए9 से प्रारंभ होकर मौजा तेतली संख्या 6 एवं सिमलौंग पहाड़ संख्या 5 की सम्मिलित सीमा से गुजरती हुई, मौजा तेतली संख्या 6, बेहम्डा संख्या 18, बड़ा घाघरी संख्या 20 तथा सिमलौंग पहाड़ संख्या 5 की त्रिसंधि स्तंभ पर बिन्दु ए10 पर मिलती है ।
- ए10—ए11 यह रेखा मौजा तेतली संख्या 6, बेहड़ा संख्या 18, बड़ा घाघरी संख्या 20 तथा सिमलौंग पहाड़ संख्या 5 की त्रिसंधि स्तंभ पर बिन्दु ए10 से आरंभ होकर, मौजा बड़ा घाघरी संख्या 20 एवं बेहड़ा संख्या 18 की सम्मिलित सीमा के साथ-साथ गुजरती हुई, मौजा बड़ा घाघरी संख्या 20 एवं बेहड़ा संख्या 18 की सम्मिलित सीमा पर बिन्दु ए11 पर मिलती है ।
- ए11—ए12 यह रेखा मौजा बड़ा घाघरी संख्या 20 एवं बेहड़ा संख्या 18 की सम्मिलित सीमा पर बिन्दु ए11 से आरंभ होकर, मौजा बड़ा घाघरी संख्या 20 की प्लाट संख्या 198 की पूर्वी सीमा, 199, 202 की उत्तरी सीमा, 202, 213, 214, 223, 222, 221, 250, 247, की पूर्वी सीमा, 244, 307, 303, 300, 298 की उत्तरी सीमा, 298 की पूर्वी 322, 330 की उत्तरी सीमा 330, 331 की पूर्वी सीमा 334 की उत्तरी सीमा तथा 335 की पश्चिमी सीमा से गुजरती हुई मौजा बड़ा घाघरी संख्या 20 एवं बेहड़ा संख्या 18 की सम्मिलित सीमा पर बिन्दु ए12 पर मिलती है ।
- ए12—ए13 यह रेखा मौजा बड़ा घाघरी संख्या 20 तथा बेहड़ा संख्या 18 की सम्मिलित सीमा पर बिन्दु ए12 से आरंभ होकर इसी दोनों मौजा की सम्मिलित सीमा, मौजा बड़ा घाघरी संख्या 20 की प्लाट संख्या 340 की पूर्वी, 343, 342 की उत्तरी सीमा 342, 352 की पूर्वी सीमा से गुजरती हुई मौजा बड़ा घाघरी संख्या 20 एवं मौजा छोटा घाघरी संख्या 19 की सम्मिलित सीमा पर बिन्दु ए13 पर मिलती है ।
- ए13—ए14 यह रेखा मौजा बड़ा घाघरी संख्या 20 तथा छोटा घाघरी संख्या 19 की सम्मिलित सीमा पर बिन्दु ए13 से आरंभ होकर मौजा छोटा घाघरी संख्या 19 की प्लाट संख्या 54 की पूर्वी 52, 51, 38 की उत्तरी, 38, 44, 71, 68 की पूर्वी 82 की उत्तरी एवं पूर्वी, 142 सड़क की उत्तरी-पूर्वी सीमा से गुजरती हुई प्लाट संख्या 83 एवं 142 सड़क की सम्मिलित सीमा पर बिन्दु ए14 पर मिलती है ।
- ए14—ए15 यह रेखा मौजा छोटा घाघरी संख्या 19 की प्लाट संख्या 83 एवं 142 सड़क की सम्मिलित सीमा पर बिन्दु ए14 आरंभ होकर प्लाट संख्या 142 सड़क को पार करती हुई, प्लाट संख्या 423 की पूर्वी सीमा से गुजरती हुई, पुनः प्लाट संख्या 423 को पार करती हुई प्लाट संख्या 347, 346 और 423 की सम्मिलित सीमा पर बिन्दु ए15 पर मिलती है ।
- ए15—ए16 यह रेखा मौजा छोटा घाघरी संख्या 19 की प्लाट संख्या 347, 346 एवं 423 की सम्मिलित सीमा पर बिन्दु ए14 से आरंभ होकर प्लाट संख्या 347 और 423 की दक्षिणी सीमा से गुजरती हुई प्लाट संख्या 423, 444 और 422 की सम्मिलित सीमा पर बिन्दु ए16 पर मिलती है ।
- ए16—ए17 यह रेखा मौजा छोटा घाघरी संख्या 19 की प्लाट संख्या 423, 444 एवं 422 की सम्मिलित सीमा पर बिन्दु ए16 से आरंभ होकर प्लाट संख्या 444 की पूर्वी 494 की पूर्वी एवं उत्तरी सीमा से गुजरती हुई मौजा छोटा घाघरी संख्या 19 तथा बड़ा घाघरी संख्या 20 की सम्मिलित सीमा पर बिन्दु ए17 पर मिलती है ।
- ए17—ए18 यह रेखा मौजा छोटा घाघरी संख्या 19 तथा बड़ा घाघरी संख्या 20 की सम्मिलित सीमा पर बिन्दु ए17 से शुरू होकर मौजा बड़ा घाघरी संख्या 20 की प्लाट संख्या 372, 370, 380, 379 की दक्षिणी सीमा से गुजरती हुई प्लाट संख्या 379, 415 एवं 416 की सम्मिलित सीमा पर बिन्दु ए18 पर मिलती है ।
- ए18—ए19 यह रेखा मौजा छोटा घाघरी संख्या 20 की प्लाट संख्या 379, 415 एवं 416 की सम्मिलित सीमा पर बिन्दु ए18 से आरंभ होकर प्लाट संख्या 379 की पश्चिमी 391, 403, 404 और 398 की दक्षिणी 115 की पूर्वी 115 और 116 की दक्षिणी 116 की पश्चिमी, 117 की उत्तरी एवं पश्चिमी सीमा से गुजरती हुई प्लाट संख्या 117, 146 सड़क तथा 97 की सम्मिलित सीमा पर बिन्दु ए19 पर मिलती है ।
- ए19—ए20 यह रेखा मौजा बड़ा घाघरी संख्या 20 की प्लाट संख्या 117, 146 सड़क तथा 97 की सम्मिलित सीमा पर बिन्दु ए19 से आरंभ होकर प्लाट संख्या 97, 56, 58, 59, 437, 63 की उत्तरी सीमा 87, 64, 65, 66, 67 की पूर्वी सीमा 87 की उत्तरी सीमा से गुजरती हुई प्लाट संख्या 87, 85, एवं 89 की सम्मिलित सीमा पर बिन्दु ए20 पर मिलती है ।
- ए20—ए21 यह रेखा मौजा बड़ा घाघरी संख्या 20 की प्लाट संख्या 87, 85, एवं 89 की सम्मिलित सीमा पर बिन्दु ए20 से आरंभ होकर प्लाट संख्या 85, 82 की पश्चिमी 83 की दक्षिणी सीमा, 5 की पश्चिमी सीमा से गुजरती हुई प्लाट संख्या 4 एवं 3 की सम्मिलित सीमा पर बिन्दु ए21 पर मिलती है ।

- ए21-ए22 यह रेखा मौजा बड़ा घाघरी संख्या 20 की प्लाट संख्या 4 एवं 3 की सम्मिलित सीमा पर बिन्दु ए21 से आरंभ होकर प्लाट संख्या 4 की पश्चिमी 4, 6, 82 की उत्तरी सीमा से गुजरती हुई मौजा बड़ा घाघरी संख्या 20 की प्लाट संख्या 82, 10 तथा मौजा सिमलौंग पहाड़ संख्या 5 की प्लाट संख्या 184 की सम्मिलित सीमा पर बिन्दु ए22 पर मिलती है ।
- ए22-ए23 यह रेखा मौजा बड़ा घाघरी संख्या 20 की प्लाट संख्या 82, 10, तथा मौजा सिमलौंग पहाड़ संख्या 5 की प्लाट संख्या 184 की सम्मिलित सीमा पर बिन्दु ए22 से आरंभ होकर मौजा सिमलौंग पहाड़ संख्या 05 की प्लाट संख्या 183, 172 सड़क को पार करती हुई, 171, 170, 147, 145 की पूर्वी सीमा से गुजरती हुई प्लाट संख्या 145, 144 एवं 148 की सम्मिलित सीमा पर बिन्दु ए23 पर मिलती है ।
- ए23-ए24 यह रेखा मौजा सिमलौंग पहाड़ संख्या 5 की प्लाट संख्या 145, 144, एवं 148 की सम्मिलित सीमा पर बिन्दु ए23 से शुरू होकर प्लाट संख्या 144, 133, 134 और 126 की दक्षिणी सीमा से गुजरती हुई, प्लाट संख्या 112 सड़क, को पार करती हुई 114, 115 की दक्षिणी सीमा 124, 123, 122 की पश्चिमी सीमा 119 की दक्षिणी सीमा से गुजरती हुई प्लाट संख्या 119, 100 एवं 99 की सम्मिलित सीमा पर बिन्दु ए24 पर मिलती है ।
- ए24-ए25 यह रेखा मौजा सिमलौंग पहाड़ संख्या 5 की प्लाट संख्या 119, 100 एवं 99 की सम्मिलित सीमा पर बिन्दु ए24 से आरंभ होकर प्लाट संख्या 119 की पश्चिमी सीमा, 100 की उत्तरी 100, 101, 102 की पश्चिमी सीमा से गुजरती हुई तथा प्लाट संख्या 172 सड़क को पार करती हुई प्लाट संख्या 172 सड़क एवं 173 की सम्मिलित सीमा पर बिन्दु ए25 पर मिलती है ।
- ए25-ए26 यह रेखा मौजा सिमलौंग पहाड़ संख्या 5 की प्लाट संख्या 172 सड़क एवं 173 की सम्मिलित सीमा पर बिन्दु ए25 से आरंभ होकर प्लाट संख्या 173 की उत्तरी सीमा से गुजरती हुई मौजा सिमलौंग संख्या 4 एवं मौजा सिमलौंग पहाड़ संख्या 5 की सम्मिलित सीमा पर बिन्दु ए26 पर मिलती है ।
- ए26-ए27 यह रेखा मौजा सिमलौंग संख्या 4 एवं सिमलौंग पहाड़ संख्या 5 की सम्मिलित सीमा पर बिन्दु ए26 से आरंभ होकर पुनः इसी दोनों मौजा की सम्मिलित सीमा से गुजरती हुई मौजा सिमलौंग संख्या 4 एवं मौजा सिमलौंग पहाड़ संख्या 5 तथा सिमलदाव संख्या 21 की त्रिसंधि स्तंभ पर बिन्दु ए27 पर मिलती है ।
- ए27-ए28 यह रेखा मौजा सिमलौंग संख्या 4 सिमलौंग पहाड़ संख्या 5 तथा सिमलदाव संख्या 21 की त्रिसंधि स्तंभ से बिन्दु ए27 से आरंभ होकर मौजा सिमलौंग संख्या 4 की प्लाट संख्या 626 की पश्चिमी, उत्तरी तथा पूर्वी सीमा से गुजरती हुई प्लाट संख्या 626, 607 तथा 608 की सम्मिलित सीमा पर बिन्दु ए28 पर मिलती है ।
- ए28-ए29 यह रेखा मौजा सिमलौंग संख्या 4 की प्लाट संख्या 626, 607 तथा 608 की सम्मिलित सीमा पर बिन्दु ए28 से शुरू होकर प्लाट संख्या 608 की उत्तरी सीमा से गुजरती हुई 543 सड़क को पार करती हुई, प्लाट संख्या 543 सड़क, 540 तथा 481 सड़क की सम्मिलित सीमा पर बिन्दु ए29 पर मिलती है ।
- ए29-ए30 यह रेखा मौजा सिमलौंग संख्या 4 की प्लाट संख्या 543 सड़क, 540 तथा 481 सड़क की सम्मिलित सीमा पर बिन्दु ए29 से शुरू होकर प्लाट संख्या 543 सड़क की पश्चिमी सीमा से गुजरती हुई प्लाट संख्या 543 सड़क, 486 सड़क तथा 536 की सम्मिलित सीमा पर बिन्दु ए30 पर मिलती है ।
- ए30-ए31 यह रेखा मौजा सिमलौंग संख्या 4 की प्लाट संख्या 543 सड़क, 486 सड़क तथा 536 की सम्मिलित सीमा पर बिन्दु ए30 से आरंभ होकर प्लाट संख्या 486 सड़क की दक्षिणी तथा पश्चिम सीमा से गुजरती हुई प्लाट संख्या 483 एवं 486 सड़क की सम्मिलित सीमा पर बिन्दु ए31 पर मिलती है ।
- ए31-ए1 यह रेखा मौजा सिमलौंग संख्या 4 की प्लाट संख्या 483 एवं 486 सड़क की सम्मिलित सीमा से आरंभ होकर प्लाट संख्या 486 सड़क, 333, 302, 301, 298, 308 को पार करती हुई प्लाट संख्या 307 में बिन्दु ए1 पर मिलती है ।

खण्ड-2 :

- बी1-बी2 यह रेखा मौजा सिमलौंग संख्या 4 की प्लाट संख्या 269, 270 एवं 325 की सम्मिलित सीमा बी1 से आरंभ होकर प्लाट संख्या 325 एवं 1 की पूर्वी सीमा से गुजरती हुई मौजा सिमलौंग संख्या 4 की प्लाट संख्या 1, 2 एवं मौजा बड़ा मुड़ जोड़ा संख्या 3 की प्लाट संख्या 324 की सम्मिलित सीमा पर बिन्दु बी2 पर मिलती है ।
- बी2-बी3 यह रेखा मौजा सिमलौंग संख्या 4 की प्लाट संख्या 1, 2 एवं मौजा बड़ा मुड़ जोड़ा संख्या 3 की प्लाट संख्या 324 की सम्मिलित सीमा पर बिन्दु बी2 से आरंभ होकर पुनः इसी दोनों मौजा की सम्मिलित सीमा से गुजरती हुई मौजा सिमलौंग संख्या 4 की प्लाट संख्या 12 एवं बड़ा मुड़ जोड़ा संख्या 3 की प्लाट संख्या 326 की सम्मिलित सीमा पर बिन्दु बी3 पर मिलती है ।

- बी3—बी4 यह रेखा मौजा सिमलौंग संख्या 4 की प्लाट संख्या 12 एवं बड़ा मुड़ जोड़ा संख्या 3 की प्लाट संख्या 326 की सम्मिलित सीमा पर बिन्दु बी3 से आरंभ होकर मौजा सिमलौंग संख्या 4 की प्लाट संख्या 12, 10, 9, 56, 58, 60, 82, 80, 79, 78, 93, 92, 263, 264, 265, 266, 287, 286 को पार करती हुई प्लाट संख्या 276, 277 और 286 की सम्मिलित सीमा पर बिन्दु बी4 पर मिलती है ।
- बी4—बी1 यह रेखा मौजा सिमलौंग संख्या 4 की प्लाट संख्या 276, 277 और 286 की सम्मिलित सीमा पर बिन्दु बी4 से आरंभ होकर 275, 274, 271, 270 की उत्तरी सीमा से गुजरती हुई प्लाट संख्या 269, 270 एवं 325 की सम्मिलित सीमा पर बिन्दु बी1 पर मिलती है ।

[फा. सं. 43015/10/2011—पीआरआईडब्ल्यू-I]

हेमन्त जैन, उप सचिव

MINISTRY OF COAL

New Delhi, the 31st July, 2012

S.O. 2516.—Whereas, it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule annexed hereto;

And, whereas, the plan bearing number ECL/SIML/MOUZA/NOTI/07 dated the 20th February, 2011 of the area covered by this notification can be inspected in the office of the Deputy Commissioner, District Pakur (Jharkhand), or in the office of the Coal Controller, 1, Council House Street, Kolkata - 700 001 or in the office of the Director Technical (Operation), Eastern Coalfields Limited, Sanctoria, P.O. Dishergarh, District-Burdwan (West Bengal), Pin Code - 713333 ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal from lands described in the said Schedule;

Any persons interested in the land described in the said Schedule may -

- (i) object to the acquisition of the whole or any part of the land, or of any rights in or over such land, or
- (ii) claim an interest in compensation if the land or any rights in or over such land, or
- (iii) seek compensation for prospecting licences ceasing to have effect, rights under mining leases being acquired, and deliver all maps, charts and other documents relating to the land, collection from the land of cores or other mineral samples and due analysis thereof and the preparation of any other relevant record or materials referred to in sub-section (7) of Section 13 of the said Act,

To the Director Technical (Operation), Eastern Coalfields Limited, Sanctoria, P.O. Dishergarh, District- Burdwan (West Bengal), Pin Code - 713 333; within ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE**Simlong Coal Mining Block (Phase-II)****District - Pakur (Jharkhand)****(Plan bearing number ECL/SIML/MOUZA/NOTI/07 dated the 20th February, 2011)****THANA - LITIPARA****DISTRICT-PAKUR**

Block No.	Sl. No.	Mouza/Village	Village number	Area in hectares (approximately)	Area in acres (approximately)	Remarks
1	1.	Bara Murjora	3	27.572	68.13	Part
	2.	Simlong	4	45.722	112.98	Part
	3.	Simlong Pahar	5	83.788	207.04	Part
	4.	Chota Ghagri	19	9.842	24.32	Part
	5.	Bara Ghagri	20	77.475	191.44	Part
		Total:		244.399	603.91	
2	1.	Simlong	4	5.302	13.10	Part
Grand Total:				249.701	617.01	

Boundary Description of the area being notified under Section 4(1) of the CBA (A&D) Act, 1957.

Block No. 1:

- A1 - A2 Line start from point number A1 inside the plot number 307 of mouza Simlong number 4 crosses the plot number 309, 297, 296, 209 road 201,200,219,221,220,226,227,223 ,247, and meets at point number A2 situated on the common boundary of plot number 247 & 248.
- A2 - A3 Line starts from point number A2 situated on common boundary of plot number 247 & 248 of mouza Simlong number 4, crosses the plot number 248,257,128,129 ,130,132, 174 ,543 road and meets on point number A3 situated in the plot number 559.
- A3 - A4 Line start from point number A3 situated in the plot number 559 of the mouza Simlong number 4 and meets on the point number A4 situated in the plot number 558.
- A4 - A5 Line start from point number A4 situated in the plot number 558 of mouza Simlong number 4, crosses the plot number 543 road, 174,132,131,128,127,126,257,248,247, 249, 253,255,256,257,100,98 and meets on point number A5 situated in plot number 74.
- A5 - A6 Line Start from point number A5 situated in plot number 74 of mouza Simlong number 4, crosses the plot number 71,72,67, 68, 69, 48, 45, 44,34,35,40,38,37,39 of Simlong and Common mouza boundary of Simlong number 4 and Bara murjora number 3, again crosses the plot number 356,355,359,401,411,410,420,422,423,424 road 425,426,450, 449,454,455 of Bara murjora number 3 and meets on point A6 situated in the plot number 448.
- A6 - A7 Line start from point number A6 situated in the plot number 448 crosses the plot number 458,459,460,464,463,432 road passes through northern-eastern boundary of the plot number 775,776 and 777; again crosses the plot number 778,786,787,790,822,823,824,825,827, 828, 831,918,917,916,915,914,920,922 and meets on the point number A7 situated on common mouza boundary of mouza Bara Murjora number 3 and mouza Amarbhita number 7.
- A7 - A8 Line starts from point number A 7 situated on the common mouza boundary of mouza Bara Murjora number 3 and mouza Amarbhita number 7, passes along common mouza boundary of these two mouza and meets point A8 on trijunction Pillar of mouza Amarbhita number 7, of mouza Bara Murjora number 3 and mouza Simlong Pahar number 4.
- A8 - A9 Line starts from point number A8 situated trijunction Pillar of mouza Amarbhita number 7, of mouza Bara Murjora number 3 and mouza Simlong Pahar number 5, Passes through common mouza boundary of Amarbhita number 7 and mouza Simlong Pahar number 5 and meets at point number A9 situated on trijunction pillar of mouza Amarbhita number 7, of mouza Tetli number 6 and mouza Simlong Pahar number 5.
- A9 - A10 Line starts from point number A9 situated on trijunction Pillar of mouza Amarbhita number 7 mouza Tetli number 6 and mouza Simlong Pahar number 5 passes through the common mouza boundary of mouza Simlong Pahar number 5 and mouza Tetli number 6 and meets at point number A10 situated on trijunction Pillar of mouza Tetli number 6, of mouza Behra number 18, mouza Ghaghari number 20 and mouza Simlong Pahar number 5.
- A10 - A11 Line starts from point number A10 situated on trijunction Pillar of mouza Tetli number 6, of mouza Behra number 18, mouza Bara Ghaghari number 20 and mouza Simlong Pahar number 5, passes through the common mouza boundary of mouza Behara number 18 and mouza Bara Ghaghari number 20 and meets on point number A11 situated on the common mouza boundary of mouza Behara number 18 and mouza Bara Ghaghari number 20.
- A11 - A12 Line start from point number A 11 situated common mouza boundary of Behara number 18 and Bara Ghaghari number 20, passes through the eastern boundary of plot number 198, Northern boundary of plot number 199, 202; eastern boundary of plot number 202,213,214,223, 222,221,250,247; Northern boundary of 244,307,303,300,298; eastern boundary of 298 Northern boundary of 322,330 eastern boundary of 330,331; Northern boundary of 334 and western boundary of 335 of mouza Bara Ghaghari number 20, and meets point A12 situated on common mouza boundary of Bara Ghaghari number 20 and Behra number 18.
- A12 - A13 Line starts from point number A12 situated on common mouza boundary of mouza Bara Ghaghari number 20 and Mouza Behra number 18 , Passes through the common mouza boundary of these two mouza; again passes through the eastern boundary of plot number 340, Northern boundary of plot number 343 and 342;

- eastern boundary of plot number 342,352 of Bara Ghaghari number 20 and meets at point number A13 situated on common boundary of mouza Bara Ghaghari number 20 and mouza Chhota Ghaghari number 19.
- A13 - A14 Line starts from point number A13 situated on common boundary of mouza Bara Ghaghari number 20 and Chhota Ghaghari number 19; passes through the eastern boundary of plot number 54, Northern boundary of plot number 52,51,38 eastern boundary of plot number 38,44,71,68 northern and eastern boundary of plot number 82, northern -eastern boundary of plot number 142 road; and meets at point A14 situated on common boundary of plot number 83 and 142 road of Chhota Ghaghari number 19.
- A14 - A15 Line start from point number A14 situated on the common boundary of plot number 83 and 142 road of chhota Ghaghari number 19, crosses the plot number 142 road, passes through the eastern boundary of plot number 423 and again crosses the plot number 423 and meets at point number A15 situated on the common boundary of plot number 347,346 and 423 of Chhota Ghaghari number 19.
- A15 - A16 Line starts from point number A15 situated on the common boundary of plot number 347,346 and 423 of mouza Chhota Ghaghari number 19 , passes through southern boundary of plot number 347 and 423 meets point number A16 situated on the common boundary of plot number 423,444 and 422 of Chhota Ghaghari number 19.
- A16 - A17 Line start from the point number A16 situated on the common boundary of plot number 423,444, and 422 of mouza Chhota Ghaghari number 19 , passes through the eastern boundary of plot 444, northern and eastern boundary of plot number 494 and, meets at point number A17 on the common mouza boundary of mouza Chhota Ghaghari number 19 and mouza Bara Ghaghari number 20.
- A17 - A18 Line starts from point number A17 situated on common mouza boundary of mouza Chhota Ghaghari number 19 and Bara Ghaghari number 20; pasees through the southern boundary of plot number 372,370;380,379 of Bara Ghaghari number 20 and meets at point number A18 on the common boundary of plot number 379,415 and 416 of Bara Ghaghari number 20.
- A18 - A19 Line starts from point number A18 situated on common boundary of plot number 379, 415 and 416 of Bara Ghaghari number 20; passes through western boundary of plot number 379; southern boundary 391,403,404 and 398; eastern boundary of 115; southern boundary of 115 and 116 western boundary of 116; northern and eastern boundary of plot number 117 and meets at point number A 19 situated on the common boundary of plot number 117 ,146 road and 97.
- A19 - A20 Line starts from the point number A19 situated on the common boundary of plot number 117,146 road and 97 of Mouza Bara Ghaghari number 20, passes through the northern boundary of plot number 97,56,58,59,437, 63 eastern boundary of plot number 87,64,65,66,67 and northern boundary 87 meets at point number A 20 situated on common boundary of plot number 87,85 and 89 of Bara Ghaghari number 20.
- A20 - A21 Line Starts from point number A20 situated on the common boundary of plot number 87,85 and 89 of mouza Bara Ghaghari number 20, passes through western boundary of plot number 85,82 southern boundary of plot number 83, western boundary of plot number 5 and meets at point A21 situated on the common boundary of plot number 4 & 3 of Bara Ghaghari number 20.
- A21 - A22 Line starts from point number A21 situated on the common boundary of plot number 4 & 3 of mouza Bara Ghaghari number 20 ; passes through western boundary of plot number 4 northern boundary of plot number 4,6,82 and meets at point number A22 situated on common boundary of plot number 82,10 of Bara Ghaghari number 20 and plot number 184 of mouza Simlong Pahar number 5.
- A22 - A23 Line start from point number A22 situated on common boundary of plot number 82,10 of mouza Bara Ghaghari number 20 and plot number 184 of mouza Simlong Pahar number 5; crosses the plot number 183,172 road, passes through the eastern boundary of plot number 171,170,147,145 and meets at point number A23 on common boundary of plot number 145,144 and 148.
- A23 - A24 Line starts from point number A23 situated on common boundary of plot number 145,144 and 148 of mouza Simlong Pahar number 5; passes through southern boundary of plot number 144,133,134 and 126 crosses the plot number 112 road, again passes through southern boundary of plot number 114,115 western boundary of plot number 124,123,122; southern boundary of plot number 119 and meets at point number A24 situated on common boundary of plot number 119,100 and 99.

- A24 - A25 Line starts from point number A24 situated on common boundary of plot number 119,100 and 99 of mouza Simlong Pahar number 5 passes through western boundary of plot number 119, Northern boundary of plot number 100, western boundary of plot number 100,101,102 crosses the plot number 172 road and meets at a point number A25 situated on the common boundary of plot number 172 road and 173 of Simlong Pahar number 5.
- A25 - A26 Line starts from point number A25 situated on the common boundary of plot number 172 road and 173 of mouza Simlong Pahar number 5, passes through the northern boundary of plot number 173 and meets at point number A26 situated on the common mouza boundary of mouza Simlong Pahar number 5 and mouza Simlong number 4.
- A26 - A27 Line starts from point number A26 situated on common mouza boundary of mouza Simlong Pahar number 5 and mouza Simlong number 4 again passes through the common mouza boundary of this both mouza and meets at point number A27 situated on trijunction Pillar of mouza Simlong Pahar number 5, mouza Simlong number 4 and mouza Simaldhab number 21.
- A27 - A28 Line start from point number A27 situated on trijunction Pillar of mouza Simlong Pahar number 5 mouza Simlong number 4 and mouza Simaldhab number 21 passes through the western, northern & eastern boundary of plot number 626, southern boundary of mouza Simlong number 4 and meets at point number A28 situated on the common boundary of plot number 626,607 and 608 of mouza Simlong number 4.
- A28 -A29 Line start from point number A28 situated on common boundary of plot number 626,607 and 608 of mouza Simlong number 4; passes through the northern boundary of plot number 608, crosses the plot number 543 road and meets at point number A29 situated on common boundary of plot number 543 road, 481 road and 540.
- A29 - A30 Line start from point number A29 situated on common boundary of plot number 543 road, 481 road and 540 of mouza Simlong number 4; passes through western boundary of plot number 543 road and meets at point number A30 situated on the common boundary of plot number 543 road, 486 road and 536.
- A30 - A31 Line start from point number A30 situated on the common boundary of plot number 543 road, 486 road and 536 of mouza Simlong number 4; passes through southern and western boundary of plot number 486 road and meets at point number A31 situated on the common boundary of plot number 483 & 486 road.
- A31 -A1 Line starts from point number A31 situated on the common boundary of plot number 483 and 486 road of mouza Simlong number 4, crosses plot number 486 road, 333,302,301,298,308 meets at point number A1 in the plot number 307 of mouza Simlong number 4.

Block No.2:

- B1-B2 Line starts from point number B1 situated on the common boundary of plot number 269,270 and 325 of mouza Simlong number 4; passes through eastern boundary of plot number 325 and 1 meets point number B2 situated on the common boundary of plot number 1 and 2 of mouza Simlong number 4 and plot number 324 at mouza Bara Murjora number 3.
- B2-B3 Line starts from point number B2 situated on common boundary of plot number 1 and 2 of mouza Simlong number 4 and plot number 324 of mouza Bara Murjora number 3; Again passes through the common mouza boundary of this both mouza and meets at point number B3 situated on common boundary plot number 12 of mouza Simlong number 4 and plot number 326 of mouza Bara Murjora number 3.
- B3-B4 Line starts from point no. B3 situated on common boundary of plot number 12 of mouza Simlong number 4 and plot number 326 of mouza Bara Murjora number 3; crosses plot number 12,10,9,56,58,60,82, 80, 79, 78,93, 92, 263, 264, 265,266,287,286 of mouza Simlong number 4 and meets point no. B4 situated on common boundary of plot number 276,277 and 286.
- B4-B1 Line starts from point number B4 situated on common boundary of plot number 276,277 and 286 of mouza Simlong number 4, passes through northern boundary 275,274,271,270 and meets at point number B1 situated on the common boundary of plot number 269,270 and 325.

[F.No. 43015/10/2011-PRIW-I]

HEMANT JAIN, Dy. Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 3 जुलाई, 2012

का.आ. 2517.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 43/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-6-2012 को प्राप्त हुआ था।

[सं. एल-12011/42/2010-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 3rd July, 2012

S.O. 2517.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.43/2010) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of India Bank and their workmen, which was received by the Central Government on 28-6-2012.

[No.L-12011/42/2010-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tuesday, the 6th June, 2012

Present : A.N. JANARDANAN, Presiding Officer**Industrial Dispute No. 43/2010**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Bank and their Workman)

BETWEEN

The General Secretary : 1st Party/Petitioner
Indian Bank Employees Union
6, Moore Street, Mannade Corner
Chennai-600001

Vs.

The General Manager : 2nd Party/Management
Indian Bank, Head Office
Rajaji Salai
Chennai-600001

Appearance:

From the Petitioner's side : Sri J.Thomas Jeyaprabhakaran,
Authorized Representative

From the Management's side: M/s T.S. Gopalan & Co.,
Advocates

AWARD

The Central Government, Ministry of Labour and Employment vide its Order No. L-12011/42/2010-IR(B-II) dated 25-11-2010 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of Indian Bank, Chennai in denial benefits of half-scale wages to Smt. R. Malliga, a Part- Time Sweeper with effect from 1992 is legal and justified ? What relief the workman is entitled for ?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 43/2010 and issued notices to both sides. Both sides entered appearance through their authorized Representatives filed their Claim, Counter and Rejoinder Statement as the case may be.

3. The contentions raised in the Claim Statement briefly read as follows:

Since 1992 Ms. R. Malliga has been working as Sweeper at the Chengadu Branch of the Respondent Bank initially with consolidated wages there against her entitlement to half-scale wages as per rule. Due to her persistence eligible half-scale wages were extended to her only from 3-6-2002. She started service from 14-10-1992. The sweeping area consisted of about 1900 sq.ft. She was paid consolidated wages from time to time which varied between 187.50 per month in 1992 and Rs. 740 per month in 1993. Mallika was working for more than 15 hours per week. In terms of Head Office guidelines she ought to have been at half-scale wages in the scale of wages as applicable to Sub-Staff with proportionate one half increment every year. Branch recommended sanctioning of half-scale wages from 14-10-1992. The certified sweeping area was worked out to 1976 sq.ft. She was extended half-scale wages w.e.f. 3-6-2002 only snatching away benefits of 10 years. Despite representations retrospective payment was denied. It is denied that she had been engaged as a casual sweeper. Her service was continuous since her engagement in 1992. In the past the Respondent had favourably considered many such identical claims for similarly placed sweepers from retrospective effect from the date of initial engagement in accordance with the Head Office Circular IRD/2/80 dated 28-10-1980. Hence the claim is legal and justified. The circular stipulates for eligibility for half-scale wages if the area to be swept is 1751 to 4000 sq.ft. and time engaged is between 13 and 19 hours per week. The shifting to the new premises

was in February, 1993. As per Head Office Circular staff/IRC/89 dated 23-2-1989 for such claims scale wages have to be paid from the date of performing duties. Her half-scale wages has to be fixed from October, 1992 and eligible arrears to be paid to her from October, 1992. Hence the claim for half-scale wages from October, 1992 to May 2002, denial of which is illegal and unjustified.

4. The Counter Statement allegations briefly read as follows:

Job opportunities should be made available to every eligible citizen of the country. For Part-Time Sweeper post Employment Exchange sponsored candidates should be considered. Part-Time Sweepers are not considered for transfer. Hence locally available and employment exchange sponsored candidate is considered for casual engagement. Branch Managers are not authorized to appoint. They may with Regional Office permission engage casual sweepers through Employment Exchange. Their wages are paid by vouchers limited to Profit and Loss Account. They are not entitled to claim absorption or wages parity with regular Part-Time employees. Malliga was engaged as a casual sweeper. She cannot claim regularization prior to 2002. Prior to 2002 she was engaged as casual sweeper only by the Branch Manager. She cannot claim wages applicable to regular sweepers. In 2002 she was appointed as Part-Time Sweeper on scale wages and was being paid scale wages therefrom. Prior to 2002 she was neither appointed to any particular post nor was she on the rolls of the Bank. She is not shown to have been an Employment Exchange hand. It was not as a Temporary Part-Time Sweeper. Casual Sweepers are not paid scale wages. The claim is to be rejected.

5. Rejoinder contentions in a nutshell are as follows:

It is mischievous to state that she had been engaged initially without the knowledge of the Zonal Office. It is very much justified in claiming wages of regular sweepers. Her work had been extracted over a long period of years. In terms of 18(1) settlement dated 28-07-2003 vacancies of Part-Time Sweepers arising in higher scale could be filled from the persons drawing lower wages including consolidated wages according to seniority. She had been all along drawing the ruling consolidated wages. So many similarly placed sweepers had been absorbed on regular basis with effect from the date of actual performance of duties. Mallika alone has been singled out for discrimination. The Regional and Zonal Office also recommended her for regularization with retrospective effect. Head Office instructed to work out the wages payable, if regularized with retrospective effect. Hence it is misleading to state that branch is acting without being aware of the laid down policy. There had not been any change between the work turned out by her before 2002 and since 2002. It is not due to her fault that she had not been on the rolls of the bank prior to 2002. She fulfilled the

twin parameter laid down by the bank for regularization with half-scale wages. The bank is to be directed to pay her the long delayed dues.

6. Points for consideration are :

- (i) Whether denial of half -scale wages to Smt. R. Malliga, PTS w.e.f. 1992 is legal and justified ?
- (ii) To what relief the concerned workman is entitled ?

7. The evidence consists of Ex.W1 to Ex.W48 marked on consent on the petitioner's side and Ex.M1 to Ex.M15 marked on consent on the Respondent's side with no oral evidence adduced on either side.

Points (i) & (ii)

8. Heard both sides. Perused the documents and records. The arguments advanced on behalf of the petitioner include that the workman Malliga had been in service continuously since 1992 against permanent vacancy. She had fulfilled the twin parameters as a condition prescribed for regularization as per Ex.W5-circular she had been engaged for more than 15 hours a week of six working days. She is entitled to absorption w.e.f. 1992 but has been sanctioned the same only w.e.f. 2002. The quantum and quality of work till and after the year 2002 for the given half-scale wages is the same. As enjoined by bank's Ex.W6-Circular, absorption is mostly retrospective. The Management engaged her though not through the Employment Exchange, there was no restriction to that being done through Employment Exchange. The bank's requirement for service of Part-Time Sweeper was there from as back as 1993. As is evidenced from Ex.W34, Ex.W39, Ex.W40 and Ex.W43, etc. Similar workers were given regularization retrospectively. She has been actually performing duty from 1993. Respondent is never used to resort to recruitment regularly through the Employment Exchange. She is not to be discriminated. The claim is to be allowed.

9. Contra arguments on behalf of the Respondent are that she has been regularized w.e.f. 03-06-2002. The appointment of Malliga was against the rules as is evident from Ex.M1 to Ex.M7 which show the action taken against the Branch Manager. The Branch Manager was punished for her employment which is not as per the rules. The appointment is illegal. There was no order of appointment of Casual Sweeper as regular employee. Ex.W10 is only a letter of recommendation showing that she was not competent to be regularized. Her case is not with clear entitlement. Her services were not exploited by the Bank. She is not through Employment Exchange. The circulars Ex.W5 and Ex.W6 pertain to Part-Time Employees of the bank and not for Casual Sweepers. The workman was only a Casual Sweeper. What Ex.W6 provides for is fixing of scale wages with prospective effect. There is no scope to interfere with the status position ordered by the Bank and the claim is only to be dismissed.

10. The thrust of the argument on behalf of the Respondent is that Malliga was engaged as a Casual Sweeper, that too by the Branch Manager without authority or even permission from the Regional Office. She cannot claim regularization prior to 2002. Only in 2002 she was appointed as Part-Time Sweeper on scale wages.

11. Reliance was placed on behalf of the Respondent to the decision of the Supreme Court in CHIEF COMMISSIONER OF INCOME TAX AND OTHERS VS. MS. SUSHEELA AND OTHERS (2008-I-LLJ-857) wherein it is held as follows “36... The argument that since one has been working for some time in the post, it will not be just to discontinue him, even though he was aware of the nature of the employment when he first took it up, is not one that would enable the jettisoning of the procedure established by law for Public employment and would have to fail when tested on the touchstone of constitutionality and equality of opportunity enshrined in Article-14 of the Constitution”.

12. In this case the workman is seen appointed only w.e.f. the year 2002 as a Part-Time Sweeper prior to which she was only Casual Sweeper and not on the rolls of the Bank. She was not a candidate sponsored through Employment Exchange. Her appointment by the Branch Manager without authority stood arraigned by the higher authorities of the Bank and the Branch Manager was even cautioned against such appointments. While her appointment of the above said nature stood regularized only w.e.f. the year 2002 she cannot be given regularization w.e.f. an anterior date viz. 1992 as claimed. The benefits of the circulars do not apply to casual sweepers. They cannot claim parity with regular employees. Her employment was irregular, if not illegal. She was not on the rolls of the bank prior to 2002. I find considerable force in the arguments on behalf of the Respondent. Though her service ran continuous from the very inception having regard to the nature of her appointment as casual, the coveted claim does not blossom in her favour. If she has been singled out or discriminated it is to be especially proved by her, it being within her special knowledge only. Right not developing in her favour in the given status and nature of her employment cannot be claimed rightfully. Hence denial of half-scale wages is only legal and justified and she is not entitled to any relief.

13. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 6th June, 2012)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined :

For the 1st Party/Petitioner Association : None
For the 2nd Party/Respondent : None

Documents Marked :

On the Petitioner's side

Ex. No.	Date	Description
Ex.W1	31-5-2005	Letter from Indian Bank Employees Union addressed to General Manager, HO:HRM Department
Ex.W2	18-6-2008	Letter from Indian Bank Employees Union to Asstt. Labour Commissioner @, Chennai
Ex.W3	20-11-2009	Letter from HO:HRM Department addressed to Assistant Commissioner of Labour (Central), Chennai
Ex.W4	09-12-2009	Letter from Indian Bank Employees Union addressed to Assistant Commissioner of Labour (Central), Chennai
Ex.W5	28-10-1980	Indian Bank HO: Industrial Relations Department Circular No. 2/80
Ex.W6	23-2-1989	Circular letter from HO: Personnel Department addressed to All the Zonal Offices authorizing regularization w.e.f. date of actual performance
Ex.W7	28-7-1993	Settlement dated 28-7-1993 under ID Act between the Management and the Union in the matter of filling up of part time sweeper vacancies
Ex.W8	27-2-2002	Settlement dated 27-2-2002 under ID Act between the management and the Union in the matter of filling of part time sweeper vacancies
Ex.W9	30-1-1992	HO:Personnel Department circular letter addressed to all Zonal Managers on increased consolidated wages
Ex.W10	18-6-1993	Letter from Chengadu Branch to Regional Office forwarding the application of Ms. Malliga
Ex.W11	13-9-1993	Letter from Chengadu Branch to Regional Office
Ex.W12	20-12-1994	Letter from Regional Office to Chengadu Branch seeking clarification
Ex.W13	27-12-1994	Letter from Chengadu Branch to Regional Office recommending the sweeper's case

Ex. W14	10-7-1995	Letter from Chengadu Branch to Zonal Office, Vellore submitted the bio-data of the sweeper	Ex. W33	14-8-2003	Letter from Chengadu Branch to Circle Office furnishing particulars of sweeper
Ex. W15	04-8-1995	Letter from Regional Office to Chengadu Branch regarding fixation of scale wages to the sweeper	Ex. W34	11-11-1993	Settlement dated 11-11-1993 under I.D. Act between the Management and the Union
Ex. W20	10-1-1997	Letter from Regional Office to Zonal Office requesting to pursue with the Head Office regarding regularization	Ex. W35	29-4-1993	Settlement dated 29-4-1993 under I.D. Act between the Management and the Union
Ex. W21	31-1-1997	Letter from Zonal Office to Chengadu Branch instructing to furnish the quantum of arrears payable if regularized in scale wages	Ex. W36	6-12-1993	Settlement dated 6-12-1993 under I.D. Act between the Management and the Union before Assistant Commissioner of Labour (Central)
Ex. W22	10-2-1997	Letter from Chengadu from Zonal Office enclosing details of arrears payable.	Ex. W37	13-4-1993	Settlement dated 13-4-1993 under I.D. Act between the Management and the Union before Assistant Commissioner of Labour (Central)
Ex. W23	16-12-1998	Letter from Zonal Office to Regional Office on payment of wages	Ex. W38	13-4-1993	Settlement dated 13-4-1993 under I.D. Act between the Management and the Union before Assistant Commissioner of Labour (Central)
Ex. W24	19-12-1998	Letter from Regional Office to Chengadu Branch to seeking particulars of engagements of sweepers.	Ex. W39	25-5-1993	Settlement dated 13-4-1993 under I.D. Act between the Management and the Union before Assistant Commissioner of Labour (Central)
Ex. W25	11-1-1999	Letter from Chengadu Branch to Zonal Office on payment of enhanced wages for sweepers.	Ex. W40	13-4-1993	Settlement dated 13-4-1993 under I.D. Act between the Management and the Union before Assistant Commissioner of Labour (Central)
Ex. W26	14-1-1999	Letter from Chengadu Branch to Zonal Office forwarding the representation for Sweepers enclosing statement of arrears of wages	Ex. W41	21-3-1991	Settlement dated 21-3-1991 under I.D. Act between the Management and the Union before Assistant Commissioner of Labour (Central)
Ex. W27	25-1-1999	Letter from Zonal Office to Chengadu Branch authorizing payment of enhanced wages.	Ex. W42	21-3-1991	Settlement dated 21-3-1991 under I.D. Act between the Management and the Union before Assistant Commissioner of Labour (Central)
Ex. W28	12-5-1999	Letter from Zonal Office to Chengadu Branch instructing payment enhanced consolidated wages	Ex. W43	8-6-1994	Settlement dated 8-6-1994 under I.D. Act between the Management and the Union before Assistant Commissioner of Labour (Central)
Ex. W29	18-5-1999	Letter from Chengadu Branch to Zonal Office	Ex. W44	13-1-1994	Settlement dated 13-1-1994 under I.D. Act between the Management and the Union before Assistant Commissioner of Labour (Central)
Ex. W30	7-12-1999	Letter from Chengadu to Zonal Office forwarding the representation from the Sweeper	Ex. W45	13-1-1994	Settlement dated 13-1-1994 under I.D. Act between the Management and the Union before Assistant Commissioner of Labour (Central)
EX. W31	13-10-2000	Letter from Chengadu Branch to Regional Office regarding on Bonus payment			
Ex. W32	1-8-2002	Approved engineers certificate specifying the sweeping area			

Ex. W46	13-1-1994	Settlement dated 13-1-1994 under I.D. Act between the Management and the Union before Assistant Commissioner of Labour (Central)
Ex. W47	13-1-1994	Settlement dated 13-1-1994 under I.D. Act between the Management and the Union before Assistant Commissioner of Labour (Central)
Ex. W48	23-8-1993	Settlement dated 23-8-1994 under I.D. Act between the Management and the Union before Assistant Commissioner of Labour (Central)

On the Management's side

Ex.No.	Date	Description
Ex. M1	20-12-1993	Letter issued by the Zonal Manager, Vellore to B. Narayanasamy, the then Manager, Indian Bank
Ex. M2	10-1-1996	Reply by B. Narayanasamy requesting 15 days time
Ex. M3	25-3-1996	Letter from Chief Manager, Vellore to B. Narayanasamy, Manager, Indian Bank, Perambur and his acknowledgement
Ex. M4	30-8-1996	Letter from Zonal Manager, Indian Bank, Vellore to Zonal Manager, Indian Bank, Chennai
Ex. M5	2-1-1997	Letter from ZI.O. Vellore to ZI, Manager, Indian Bank, Chennai
Ex. M6	29-1-1997	Reply of Vigilance Department, Z.O. Chennai to ZI Office, Vellore
Ex. M7	29-1-1997	Copy of punishment order dated 29-1-1997 addressed to B. Narayanasamy
Ex. M8	18-8-2003	Letter from Asstt. General Manager, Vellore to Asstt. General Manager (A.S.), Chennai seeking permission to fix 1/2 scale wages to Mrs. Malliga w.e.f. 3-6-2002
Ex. M9	01-9-2003	Letter from Asstt. General Manager, Chennai to Assistant General Manager, Vellore
Ex. M10	23-1-2004	Service Sheet of R. Malliga - S. R. No. 96008 appointing her from 3-6-2002 as PTS on basic pay of Rs.1,375 enclosing confidential report and service joining report
Ex. M11	18-9-2003	Letter from Chief Mgr., Vellore to Branch Mgr., Chengadu enclosing Engineer's certificate

Ex. M12	25-10-2003	Letter from Chief Manager, Vellore to Asstt. General Manager, Chennai
Ex. M13	30-9-1978	Circular Notice - No. F/1/2/1/77/1R from Government of India, Ministry of Finance, New Delhi - to all Nationalized Banks
Ex. M14	16-8-1990	Circular Notice No. F/3/3/104/87 -IR from Government of India, Ministry of Finance, New Delhi
Ex. M15	26-10-1994	Circular by Indian Bank - No. 11/94-95-Misc.-139

नई दिल्ली, 3 जुलाई, 2012

का.आ. 2518.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 67/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-7-2012 को प्राप्त हुआ था।

[सं. एल-12011/191/2003-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 3rd July, 2012

S. O. 2518.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 67/2003) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Vijaya Bank and their workman, which was received by the Central Government on 2-7-2012.

[No. L-12011/191/2003-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -
CUM -LABOUR COURT "SHRAM SADAN",
III MAIN, III CROSS, II PHASE, TUMKUR ROAD,
YESHWANTHPUR, BANGALORE- 560 022**

Dated : 5th June, 2012

Present : SHRI S. N. NAVALGUND, Presiding Officer**C. R. No. 67/2003****IPARTY**

The Regional Secretary,
Vijaya Bank Workers Organisation,
122, 1st Floor, Srinath Complex,
New Cotton Market,
Hubli- 29

II PARTY

The Deputy General Manager,
Vijaya Bank,
Head Office, M.G. Road,
Trinity Circle,
Bangalore- 560 001

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) has referred this dispute vide order No. L-12011/191/2003-IR(B-II) dated 20-11-2003 for adjudication on the following schedule :

SCHEDULE

“Whether the action of the management of Vijaya Bank is justified in dismissing the services of Shri Gajanan L. Modgekar, Clerk ? If not, what relief the workman is entitled to?”

2. After receipt of the reference pursuant to the notices issued by this court Shri Gajanan L. Modgekar (hereinafter referred as first party workman), now deceased and represented by his wife and two daughters appeared through Shri S. Vittal Shetty, advocate and filed his claim statement on 31-8-2004, whereas the second party also entered its appearance through Shri B.C. Prabhakar, Advocate and filed counter statement on 27-7-2005. My learned Predecessor having regard to certain allegations made in the claim statement with regard to the fairness of the Domestic Enquiry while framing preliminary issue as to “Whether the Domestic Enquiry conducted against the first party by the second party is fair and proper?”, after receiving the evidence of the enquiry officer as MW1 and exhibiting order appointing Shri B. Sooryakumar Rai as enquiry officer; charge sheet issued to the first party dated 1-9-2001; explanation of the first party to the charge sheet; enquiry notice issued to first party; enquiry proceedings and enquiry report as Ex. M1 to M6 for the second party and as the first party workman after filing his affidavit in lieu of his evidence before cross-examination expired his wife who came on record as one of his legal representative filed her affidavit and examining herself as WW1 got exhibited death certificate of her husband as Ex.W1 and concluded her evidence, my learned Predecessor after hearing the arguments addressed by the learned advocates appearing for both sides by his order dated 10-5-2007 hold the Domestic Enquiry conducted against the first party by the second party being fair and proper, called upon both the sides to address their arguments on merits. It is borne out from the records that the learned advocates appearing for both sides have filed their written arguments before my learned Predecessor and he could not pass an award due to his retirement and after his retirement again

both sides counsels were when called upon to address their arguments both of them bringing to my notice that they have already filed the written arguments requested to consider the same and to proceed to pass award. In view of the facts narrated by me above, the points that arise for my consideration are -

(i) Whether the finding of the enquiry officer the charge framed against the first party being proved is perverse?

(ii) If not, whether the punishment of dismissal imposed by the Disciplinary Authority modified by the Appellant Authority i.e. removal from service with superannuation benefits is disproportionate to the proved charge of misconduct ?

(iii) What award ?

3. On appreciation of the pleadings and evidence brought on record before the enquiry officer with plea of the deceased first party workman with the written arguments submitted by both the sides my finding on point No. (1) and (ii) are in the negative and point No. (iii) is as per the final award for the following reasons :

Reasons

4. It is borne out from the records of the Domestic Enquiry that the deceased first party workman who joined the services of second party as Peon with staff code No. 20065 w.e.f. 15-1-1998 and was working at its Lamington Road Branch, Hubli on 10-05-2001 served with a suspension order on the ground that there are reasons to believe that on 8-5-2001 at 5.45 pm he manhandled and physically attacked Mr. Vivek J. Waichal (Code No.16364) Clerk without any provocation and then he also manhandled and physically attacked Shri H. Prabhakar Hegde (Code No. 3522) Assistant Branch Manager who came to his rescue and then he rushed into the chambers of Shri Gurudas G Narekuli (Code No. 2981), Sr. Branch Manager who was making conversation on telephone and also manhandled him and thereafter issuing a show cause notice and on receipt of his reply being not satisfied of the same served charge sheet dated 1-9-2001 as under:

CHARGE SHEET

“Whereas there are prima facie grounds to believe that you have committed acts of misconduct, the particulars of which are furnished hereunder:—

You have been working as Peon at Lamington Road Branch, Hubli from 15-1-1998. On 8-5-2001 at about 5.45 p.m. a lorry carrying files of erstwhile Regional Office, Belgaum came and unloading was going on near Lamington Road branch premises of the Bank at Hubli. Shri H.P. Hegde, Asstt. Branch Manager, Lamington Road Branch, Hubli, Shri Vivek Waichal, Clerk, Lamington Road Branch and few other staff

members of the bank were at the entrance of the branch. Suddenly Shri Gajanan L. Modgekar without any provocation attacked aforementioned Shri Vivek Waichal and tried to hit him holding his hand. Then, Shri H.P. Hegde, Asst. Branch Manager came to the rescue of Shri Vivek Waichal. In the meantime, Shri Gajanan L. Modgekar attacked Shri H.P. Hegde, Asst. Branch Manager, by holding his collar, neck and pushed him towards the computer server room cabin. With the result Shri H.P. Hegde, Asst. Branch Manager lost his balance and fell down on the edge of the Counter and Computer Cabin. At that time, a few staff members present there came to the rescue of Shri H.P. Hegde, Asst. Branch Manager.

Then Shri Gajanan L. Modgekar escaped and rushed towards the Senior Branch Manager's cabin. At that time, Shri Gurudas G. Narekulli, Senior Branch Manager, Lamington Road branch, was attending a telephone call. Shri Gajanan L. Modgekar, attacked said Shri Gurudas G. Narekulli by kicking him at the left waist and tried to snatch the telephone. Immediately Shri H.P. Hegde, Asst. Branch Manager and other staff members rushed to the Senior Branch Manager's Cabin and took away Shri Gajanan L. Modgekar who left the premises thereafter. All these incidents happened within a fraction of few minutes. Two of the customers of the branch Shri D.P. Madar and Shri Shashidharan Pillai were also present at that time.

By your above said acts, you had shown rude, indecent and unruly behaviour towards your official superiors/colleagues, which are highly irregular and amounts to misconduct under the provisions of Bipartite Settlement.

All the above acts on your part amount to serious misbehaviour on the premises of the bank as also willful attempt to cause damage to the property of the bank and also its customers.”

The bank, therefore, charges you as under:

“Your action of committing the riotous and indecent behaviour on the premises of the Bank and causing willful damage to the property of the bank in the presence of customers of the bank as stated above on 8-5-2001 amount to acts of Gross Misconduct under sub-clause (c) and (d) of Clause 19.5 of Chapter XIX of the Bipartite Settlement 1966”.

“You are, therefore, requested to submit your written statement, setting forth your defence, if any, in triplicate to the undersigned within 7 days of receipt of this charge sheet and show cause as to why appropriate disciplinary action should not be taken against you failing with it will be deemed that you have no statement of defence to submit and the matter will be proceeded with accordingly.”

5. After the first party availing sufficient time and filing his reply/Ex.M3 to the effect that whatever happened on 8-5-2001 was due to his suffering from meningitis and he may be excused and he would not give a chance for occurrence of such incidents in future, the management being not satisfied with the said explanation initiated the Domestic Enquiry appointing Shri Jayaprakash Shetty as enquiry officer and Shri Vijay Hegde, Asst. Manager as Presenting Officer. The said enquiry officer issued a notice to the deceased first party workman to appear on 16-1-2002 for enquiry and on that day the first party who appeared along with Shri Vasudev K Bhat to represent him as Defence Representative while admitting the receipt of charge sheet and understanding the same admitted the charges with a request to consider his case under Section 19.12(e) of Chapter XIX of the Bipartite Settlement, 1966 he concluded the enquiry on the same day and submitted his report as the charge being proved forwarded the same along with the representation given by the deceased workman to consider his case under Section 19.12(e) of Chapter XIX of the Bipartite Settlement, 1966 to the Disciplinary Authority and the Disciplinary Authority while rejecting the request of the deceased first party workman to consider his case under Section 19.12(e) of Chapter XIX of the Bipartite Settlement, 1966 deciding to hold a *denovo* enquiry appointed Shri Surya Kumar Rai, Chief Manager (Regional Inspectorate, Hubli) as Enquiry Officer and Shri M.K. Vijayakumar, Manager, BH Road branch, Bhadravati as Presenting Officer and the said enquiry officer after confirming the receipt of charge sheet and understanding the same when asked to the deceased first party workman whether he pleads guilty he pleaded guilty of the charges. In spite of the deceased first party pleading guilty to the charge sheet the Enquiry Officer when called upon the Presenting Officer to present his case he produced preliminary investigation report dated 9-5-2001 submitted by Shri K. Prabhakar Hegde, Sr. Manager, R.O., Hubli; letter dated 9-5-2001 given by Shri H. Prabhakar Hegde, ABM, Lamington Road Branch to the Investigating Officer; letter dated 9-5-2001 given by Shri D.P. Madar, one of the customers to the Investigating Officer; letter dated 9-5-2001 given by Shri V.G. Shashidhar Pillai, customer to the Investigating Officer; letter dated 9-5-2001 given by Shri Gurudas G. Narekulli, SBM, Lamington Road branch to the Investigating Officer; letter dated 9-5-2001 given by Shri S.B. Kunnur, Asst. Manager, Lamington Road branch to the Investigating Officer; letter dated 9-5-2001 given by Shri Vivek J. Waichal, Clerk, Lamington Road branch to the Investigating Officer; letter dated 9-5-2001 given by Shri M.Y. Anegundi, Clerk, Lamington Road branch to the Investigating Officer; letter dated 9-5-2001 given by Shri A.K. Meerunnavar, Peon, Lamington Road branch to the Investigating Officer; letter dated 9-5-2001 given by Shri H.R. Madhubhavi, Peon, Lamington Road branch to the Investigating Officer; letter dated 9-5-2001 given by Shri D.K. Tahsildar, Peon, R.O, Hubli to the Investigating

Officer; letter dated 9-5-2001 given by Shri Ramappa S.Yaligar, PTS, Lamington Road branch to the Investigating Officer; letter dated 9-5-2001 given by Shri S.V. Lakshmeshwar, Clerk, Lamington Road branch to the Investigating Officer; letter dated 9-5-2001 given by Shri B.V. Pandurangi, Clerk, Lamington Road branch to the Investigating Officer; letter dated 9-5-2001 given by Shri P.D. Ari, Spl. Asst., Lamington Road branch to the Investigating Officer; letter dated 9-5-2001 given by Shri G. P. Kulkarni, Manager, Lamington Road branch to the Investigating Officer; letter dated 9-5-2001 given by Shri K.J. Shetty, Manager, Lamington Road branch to the Investigating Officer; letter dated 9-5-2001 given by Shri A. G., R O., Hubli to Shri K. Prabhakar Hegde, SM, RO, Hubli to conduct an investigation; letter dated 8-5-2001 written by Lamington Road Hubli branch to AGM, RO, Hubli regarding the incident; Letter dated 9-5-2001 of AGM, RO, Hubli addressed to Shri Gajanan L Modgekar, calling for explanation and letter dated 24-5-2001 of Shri Gajanan L. Modgekar to the AGM, RO, Hubli in reply to their letter dated 9-5-2001 and also submitted that he would examine Shri H. Prabhakar Hegde, Branch Manager, Ranebennur Branch; Shri D.P. Madar, Customer of Lamington Road Branch; Shri V.G. Shashidhar Pillai, Customer of Lamington Road Branch; Shri A.K. Meerannavar, Peon, Lamington Road Branch, Hubli; Shri H.R. Madhubhavi, Peon, Lamington Road Branch, Hubli; Shri S.B. Kunnur, Asst. Manager, Lamington Road Branch and Shri Gurudas G. Narekulli, SBM, Lamington Road Branch as management witnesses and also furnished the full set of the documents to the deceased first party workman and getting those documents marked as Ex. MEX 1 to MEX 21 he examined Shri D. P. Madar, Customer; Shri V.G. Shashidharan Pillai, Customer; Shri H. Prabhakar Hegde, Branch Manager; Shri A.K. Meerannavar, Peon; Shri H.R. Madhubhavi, Peon; Shri S.B. Kunnur, Asstt. Manager and Shri Gurudas G. Narekulli, Sr.Branch Manager as MW1 to MW7. After close of the management side when the enquiry officer asked the deceased first party workman whether he would like to make any submission since he submitted that he sincerely and humbly request to consider his case under Section 19.12(e) of the Bipartite Settlement 1966 and that he unconditionally accept all the charges framed against him and to consider the same on humanitarian ground he concluded his enquiry and submitted his finding the charge being proved. The Disciplinary Authority thereafter serving the copy of the enquiry report and affording a personal hearing to the deceased first party workman by his order dated 17-7-2002 imposed the punishment Dismissal from service of the bank with immediate effect. On appeal by the deceased first party workman to General Manager(Personnel)& Appellate Authority, he after affording personal hearing to the deceased first party workman modified the punishment of Dismissal into one of removal from service with superannuation benefits by order dated 29-8-2002.

Thereafter when the conciliation proceedings initiated by the deceased first party workman failed the Central Government made this reference for adjudication.

6. Since as already adverted to by me, my Learned Predecessor by his order dated 10th May, 2007 having held the Domestic Enquiry conducted against the first party by the second party being fair and proper, the only points that remains now for my consideration is whether the finding of the enquiry officer is perverse and whether the final order of punishment i.e. the removal from service with superannuation benefits is disproportionate to the proved charge, let me now proceed to consider these aspects.

7. No doubt as put forward by the deceased first party workman the first two witnesses examined for the management i.e. Shri D.P. Madar & Shri V. G. Shashidharan Pillai customers as MW1 & MW2 claims to be present at the time of alleged incident though deposed that at the relevant time they saw one of the peon rushing towards the branch Manager's cabin who was attending the telephone call kicked him and few staff members rescued him did not identify the deceased first party workman was being the actual assailant, but the evidence of MW3, Shri H. Prabhakar Hegde, Branch Manager who deposed that on the evening of 8-5-2001 around 5.45 pm he saw Gajanan Modgekar (the deceased first party) holding the hands of Vivek Waichal and trying to hit him he went to his rescue and he too attacked him and pushed as a result of which he fell down and then he reached the branch Manager's cabin and kicked him and the evidence of MW4 Shri A.K. Meerannavar, Peon that on 8-05-2001 around 5.30 in the evening after keeping the cash inside the safe when he came out he saw Shri Vivek Waichal and Prabhakar Hegde near the gate and suddenly the peon pulled Shri Vivek by holding his hands and then pushed Shri Prabhakar Hegde near the computer room and then rushed to the Branch Manager's cabin who was talking over telephone and kicked him and he was rescued by the staff members and in the evidence of MW5 Shri H.R. Madhubhavi, peon that when he came out of the stationery room after changing the uniform around 5.30 in the evening he found some commotion at the entrance of the branch and found Shri Gajanan(deceased first party) rushing to the Branch Manager's cabin and kicking him was rescued by staff members and the evidence of MW6 Shri S.B. Kunnur, Assistant Manager that on 8-5-2001 around 5.30 in the evening while he was sitting in the seat just outside the Branch Manager's cabin along with the two customers who came in connection with their loan proposal around 5.45 he heard a sudden noise near the front gate and then he saw Shri Gajanan(deceased first party) suddenly rushing to the Branch Manager's cabin who was attending the telephone kicked him and tried to snatch the telephone from him and in the meanwhile staff members rescued him and the evidence of MW7 S Gurudas

G. Narekulli, Sr. Branch Manager that on 8-5-2001 around 5.45 pm when he was attending a telephone call in his cabin he could see through the glass some commotion near the gate, suddenly the peon Shri Gajanan rushed into his cabin and kicked him from behind and tried to snatch the telephone and in the meanwhile other staff members came to his rescue and took Shri Gajanan away being not at all challenged or even denied in their cross examination, only because the two customers of the bank examined as MW1 & MW2 could not name the deceased first party or identify him as one who was the assailant it cannot be said that it is not he who made this galatta on that day. Moreover, even in his plea at the time of second enquiry he having unequivocally pleaded guilty and even in his representation to the Disciplinary Authority after receipt of the enquiry finding admitted charge of manhandling the bank officers who were superior to him without any reason, absolutely I find no reason to say that the finding of the enquiry officer being perverse.

8. Now coming to the part of the punishment, as already adverted to by me above, the disciplinary authority having regard to the act on the part of the deceased first party workman inflicted him with the punishment of Dismissal from service, the Appellate Authority while considering the past records of the deceased first party workman was without any black mark taking a lenient view modified it to removal from service with superannuation benefits, for such act of an employee in the bank who was in the lowest rank assaulting the superior employees in the bank without any reason no lesser punishment than one imposed by the Appellate Authority i.e removal from service with superannuation benefits could have been inflicted. In other words to the charge of misconduct proved against the deceased first party workman the final punishment by the Appellate Authority of removal from service with superannuation benefits is not disproportionate and it needs no interference by this court. In the result while answering Point No(i)&(ii) in the 'Negative' I pass the following award.

AWARD

The reference is rejected holding that the action of the management of Vijaya Bank in removing Shri Gajanan L. Modgekar, Clerk from the services with superannuation benefits is just and proper and that his legal representatives are not entitle for any benefits.

(Dictated to PA transcribed by her corrected and signed by me on 5-6-2012).

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 3 जुलाई, 2012

का.आ. 2519.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल

बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, चंडीगढ़ के पंचाट (संदर्भ संख्या 484/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-6-2012 को प्राप्त हुआ था।

[सं. एल-12011/62/2005-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 3rd July, 2012

S.O. 2519.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.484/2005) of the Central Government Industrial Tribunal/Labour Court-II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workmen, which was received by the Central Government on 28-6-2012.

[No. L-12011/62/2005-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri A.K. Rastogi, Presiding Officer

Case No. I.D. 484/2005

Registered on 25-8-2005

The Regional President, All India PNB SC/ST Welfare Association, Village Baidi, P.O. Bandi, Tehsil and Distt, Kangra (HP).

...Petitioner

Versus

The Senior Regional Manager, Punjab National Bank R.O. Dharamshala Dt. Kangra.

...Respondent

APPEARANCES

For the workman : Sh. R. K. Dhiman, A. R.

For the Management : Sh. R. S. Rana, A. R.

AWARD

Passed
on June 1, 2012

The Central Government vide Notification No. L-12011/62/2005-IR(B-II)) Dated 9-8-2005, by exercising its powers under Section .10 sub- section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947

(hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

“Whether the action of the management of PNB, Dharmshala, in Inflicting punishment of reduction of salary by one stage in scale of pay for period of two years on Sh. P. N. Dhiman is legal and justified ? If so, to what relief the concerned workman is entitled to ?”

The factual matrix of the case is that the workman had been charge sheeted for committing gross misconduct under Clause 19.5(j) and 19.5(c) of the Bipartite Settlement as he had influenced the customers of the bank to deposit the money with a private company instead of depositing the money with the bank since his wife was working as an agent of the said company and secondly he had threatened the complainants for dire consequences if complaints were not withdrawn by them and thirdly his behaviour towards the colleagues was rude. After inquiry the disciplinary authority inflicted the punishment of reduction of salary by one stage in the scale of pay for a period of two years from the date of order. It is this order which is under challenge in the reference. The fact however is that in an appeal by the workman the said punishment was modified and reduced, as the appellate authority ordered for the punishment of the reduction of the salary by one stage in the scale of pay for a period of one year.

In his claim statement claimant has challenged the punishment order passed by both the authorities on the ground that the charges in the charge sheet, do not fall under the meaning and provisions of 19.5(j) and 19.5(c) of Bipartite Settlement, were manipulated, fictitious, false, vague and based on ill-will. They were not proved and the punishment awarded was higher than the proposed punishment of withholding two increments without cumulative effect.

The management contested the claim and filed the written statement to say that the claimant union is not a registered trade union and is not competent to espouse the industrial dispute. The punishment in the case was inflicted after holding a proper inquiry. Charge sheet was based on genuine complaint and the charges stood proved in the inquiry. Punishment inflicted by the authorities is commensurate with the gravity of offence.

A rejoinder to the written statement of the management was filed by the claimant.

On behalf of claimant the concerned workman and on behalf of management the affidavit of A.K. Diwan the Presenting Officer in the inquiry was filed. Parties also filed certain documents. When the case was at the stage of management evidence the claimant absented and did not join the proceedings despite notice sent by registered post on 23-8-2010. However written arguments filed by

the claimant earlier, are available on record. I have perused the record and heard the learned counsel for management.

The management has challenged the maintainability of reference on the ground that the claimant union is not a registered trade union and is not competent to espouse the dispute. In this regard it may be noted that it is not necessary that the union should be a registered trade union or a recognized trade union under the Act. If a body of substantial number of workmen either acting through a union or otherwise, had sponsored the workmen's cause, it would be sufficient to convert it into an industrial dispute. The definition of an industrial dispute is not restricted to a dispute between an employer and a recognized trade union but it takes within its wide sweep, any 'dispute or difference' between the employer and the workmen. The objection of the management therefore in this regard has no weight.

But in my opinion the claimant union has no case as the punishment of reduction of salary by one stage in a scale of pay for period of two years passed by the disciplinary authority has been referred for adjudication while the said punishment has already been reduced by the appellate authority to reduction of salary by one stage in the scale of pay for a period of one year. Therefore there is no occasion for adjudging the legality and justification or the punishment under the reference. The reference has become infructuous. The concerned workman is not entitled to any relief under the circumstances with regard to punishment under the reference. Reference is answered accordingly. Let two copies of the award be sent to Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 3 जुलाई, 2012

का.आ. 2520.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-I, नई दिल्ली के पंचाट (संदर्भ संख्या 138/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-6-2012 को प्राप्त हुआ था।

[सं. एल-12011/137/2000-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 3rd July, 2012

S.O. 2520.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.138/2011) of the Central Government Industrial Tribunal/Labour Court-I, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of Allahabad Bank and their workmen, which was received by the Central Government on 8-6-2012.

[No. L-12011/137/2000-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX, DELHI**

I. D. No.138/2011

Shri S.K.Bawa,
Through the General Secretary,
All India Allahabad Bank Employees' Union
Allahabad Bank,
Baroda House,
New Delhi

...Workman

versus

The General Manager (P&A),
Allahabad Bank,
A.B. Head Office,
2, Netaji Subhash Road,
Kolkata

...Management

AWARD

Policy of effective utilization of human resources empowers an employer to transfer his employee from one place of work to another. Level of utilization, employment and retention of human resources in exigency of work are the domain of an employer. Transfer of an employee, being the incidence of employment is the prerogative of the employer. This right of employer, has been put under certain restriction by industrial adjudication. When transfer of an employee is by way of victimization or malafide, the Industrial Adjudicator has the right to intervene. Managerial function, when performed with corrupt or criminal intention, would cease to be rightful. It would amount to tyrannical act and would invite spurns from adjudicatory authorities.

2. All India Allahabad Bank Employees Association (in short the Association) raises eyebrows on transfer of Shri S.K. Bawa from NOIDA branch to Tughlakabad, New Delhi branch of Allahabad Bank (in short the Bank). The Association projects that Shri Bawa was its All India Treasurer, whose transfer was done by the Bank with a view to weaken it. Demand was raised that the transfer order may be recalled. The demand, so raised, was not conceded to. An industrial dispute was raised before the Conciliation Officer. Since conciliation proceedings failed,

the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No.L-12011/137/2000-IR(B-II) New Delhi dated 17-10-2010, with the following terms :

“Whether by the transfer of Shri S.K. Bawa, All India Treasurer of All India Allahabad Bank Employees Association by the Management of Allahabad Bank allegedly against the provisions of Memorandum of Settlement dated 3-3-1980, was there any violation of Para 535 of Shastry Award ? If so, what relief the workman is entitled to ?

3. Claim statement was filed by the Association pleading that Shri S.K. Bawa is its All India Treasurer, who was office bearer of the Association for last more than three years and an intimation in that regard was sent to the Bank. He was posted in NOIDA branch of the Bank as Special Assistant. The Bank has failed to acknowledge the fact of his being an officer bearer of the Association. He was transferred to Tughlakabad branch of the Bank with the intention to terrorize the members of the Association and to uphold the morale of the rival union. The action of the Bank is violative of the provisions of Para 535 of the Shastry Award as well as guidelines issued by the Bank relating to rotational transfers. It was brought to the notice of the Bank that transfer of Shri Bawa was not in consonance with the settled norms. The Bank did not budge. The Association projects that the Bank had taken a discriminatory view and projected undue interest in favour of All India Allahabad Bank Employees Co-ordination Committee, an unregistered trade union, when settlement dated 3-3-1990 was entered into. It has been claimed that the action of the Bank in transferring Shri Bawa may be declared as illegal, discriminatory and violative of the principles of natural justice.

4. Claim was demurred by the Bank pleading that the Association impugns the transfer orders of Shri Bawa being violative of Para 535 of Shastry Award and Settlement dated 3-3-1990. It has been asserted that the Association has no right to espouse cause of Shri Bawa, since he is not governed by the provisions of Para 535 of the Shastry Award. The claim of the Association that transfer of Shri Bawa is in contravention of the terms of Settlement dated 3-3-1990 is also unfounded. Shri Bawa is not an office bearer of a union, as envisaged by the provisions of Shastry Award.

5. The Bank projects that Shri S.K. Bawa was posted at Scindia House branch from where he was transferred to NOIDA branch on promotion. He obtained another promotion at NOIDA branch under orders from the Regional Manager, New Delhi. At the time of his promotion to NOIDA branch, no objection was raised to the effect that his transfer was out of the State. Now, it does not lie in the mouth of the Association to agitate that the claimant was not controlled by the Regional Manager, New Delhi

and his transfer was from one station to another. It has further been projected that the Association was not to be consulted for transfer of Shri Bawa. On the other hand, it was All India Allahabad Bank Employees Co-ordination Committee and its affiliated union which were to be consulted. The Bank presents that the claim put forth by the Association is devoid of merits, hence it may be dismissed.

6. The Association traces reliance on Settlement dated 3-3-1990, which is also pressed in service by the Bank. This document was exhibited as Ex. M1. Except this piece of documentary evidence, no other evidence was put forward either by the Association or by the Bank. Both parties projected that facts are not in dispute.

7. Arguments were heard at the bar. Shri R.S. Saini, authorised representative, advanced arguments on behalf of the Association. Shri Rajat Arora, authorised representative, raised submission on behalf of the Bank. I have given my careful consideration to the arguments advanced at the bar and cautiously perused the records. My findings on issue involved in the controversy are as follows:

8. Employees in any concern are, in ordinary course of business, liable to be transferred. No concern can possibly run if it has no right to transfer its employees from one branch to another. The transfer might cause some inconvenience but all employees are bound to suffer inconvenience unless there is some stipulation in their condition of services to the effect that they will remain at a particular branch or place of business. Thus, liability to be transferred is a normal incidence of service in any concern and it does not necessarily involve punishment. So management has got a right in law to transfer an employee from one branch to another or from one concern to another, which is also under the same management.

9. In effecting transfer of workmen from one branch to another, the management must act bonafide and in the interest of its business. The existence of power to transfer and its scope and exercise of it are entirely two different questions. Colourable exercise by the employer of his power to transfer a workman from one establishment at one place to another at different place can always be a subject-matter of industrial dispute. In considering the question whether transfer from one place to another had effected a change in the conditions of service of a workman, following types of cases must be considered, namely,—

- (a) Where there are standing orders or the conditions of service have been reduced to writing; and
 - (i) those may either contain provisions to deal with transfers, or
 - (ii) they may not.

- (b) Where there are no standing orders at all or any other instrument in writing to deal with service conditions.

10. In cases, falling under (b) or (a) (ii), liability to be transferred from one establishment to another at a different place by the employer or at his instance is an incidence of service, that is to say, an implied condition of service and the workman concerned cannot successfully complain unless he can show that the transfer was made by way of punishment. In cases falling within (a) (i) above two broad questions arise for consideration, namely—(i) whether the rules or provisions dealing with the matter of transfer are of the fullest amplitude, that is to say, whether they cover the whole field of transfer, or (ii) whether they are not. In the first case, those rules or provisions would be the only governing rules or provisions on the subject. Whether the rules regarding transfer are of the fullest amplitude or not would depend upon consideration of the standing orders or contract of service. In the second type of cases, it must be seen as to what extent the special provisions or rules in the standing orders have effected or curtailed the general power of transfer of the employer which is implied in every contract of service.

11. Powers of the employer to transfer an employee from one place to another necessarily includes two things, namely -

- (i) It can only be taken away or curtailed or regulated in express terms, and
- (ii) that the power is only in the employer which means that only the employer or a person either expressly authorized by him or who can be said to have that authority impliedly, can exercise that power.

12. As detailed below, Shastry Award and Settlement dated 3-3-1990, place restrictions on the powers of the Bank to effect rotational transfers of its employees. Transfer of an employee which is justified by exigencies of service and also in accordance with the standing orders cannot be said to be creating hardship to the employee. In such transfer, question of hardship cannot be construed to treat the transfer unfair. In Shastry Award, the policy of transfer of the staff was penned down in Para 535. Relying on Sen Award, directives were given, which are reproduced as follows:

- (i) Every registered Bank employees' union, from time to time, shall furnish the Bank with the names of the President, Vice President and the Secretaries of the Union;
- (ii) Except in very special cases, whenever the transfer of any of the above mentioned office bearers is contemplated, at least five clear working days' notice should be put up on the notice board of the

Bank of such contemplated action;

(iii) Any representation, written or oral, made by the union shall be considered by the Bank;

(iv) If any order of transfer is ultimately made, a record shall be made by the Bank of such representation and the Bank's reasons for regarding them as inadequate; and

(v) The decision shall be communicated to the union as well as to the employee concerned.

13. Besides above, the Bank entered into a settlement dated 3-3-1990 wherein rotational transfer was agreed upon between the Bank and All India Allahabad Bank Employees Co-ordination Committee. The rotational transfer policy agreed into between the parties, is extracted thus:

“a. Rotational transfer - Rotational transfer of award staff will be considered in a phased manner, who have completed more than five years of continuous service in a particular Branch/Office on the principle of ‘first in - first out’:

(i) First of all, employees who have completed 20 years of continuous service at a branch/office shall be considered

(ii) Then employees who have completed 15 years of continuous service at a branch/office will be considered

(iii) Then employees who have completed 10 years of continuous service at a branch/office will be considered

(iv) At last, employees who have completed five years of continuous service at the branch/office will be considered.

b. Rotational transfer will be made within the same station.

c. There will be transfer of employees drawing special allowance, with the following exceptions:

i. transfer of physically handicapped employees, widow employee and/or employees who are to retire within the next two years will not be effected

ii. important office bearers of All India Allahabad Bank Employees Co-ordination Committee and its affiliated unions will not be transferred without their consent

The exception as mentioned in (ii) is equally applicable to non allowance carrying posts

d. Transfer will be effected in a manner so that no inconvenience/harassment is caused to any employee

e. It will be ensured that there should be no abuse/misuse of the authority while effecting rotational transfer.”

14. With a view to give effect to settlement dated 3-3-1990, the Bank issued circular dated 3-4-1990 wherein the above policy was incorporated to the fullest extent. Circular referred to above is not a matter of dispute. Settlement dated 3-3-1990 and Circular dated 3-4-1990 project that the Bank can devise policy of transfer of its employees for utilization of manpower to the greatest extent, subject to the restrictions contained therein. The employee who had completed at least 5 years of continuous service at a branch/office can be rotationally transferred. Employees drawing special allowance can also be transferred in case he does not happen to be physically handicapped or widow and/or to retire within the next two years. Important office bearers of All India Allahabad Bank Employees Co-ordination Committee and its affiliated unions were not to be transferred without their consent.

15. As borne out of records, the Association projects that Shri S.K. Bawa was its All India Treasurer, who ought not to have been transferred without his consent. As projected above, Shastry Award ordains the Bank to give at least 5 clear working days' notice to the registered Bank employees union, in case its President, Vice President and Secretaries are to be transferred. It is not a matter of dispute that the Association is registered Bank employees' union. However, Shri Bawa is neither the President, nor Vice President nor Secretary of the Association. He is All India Treasurer of the Association, which designation does not find place in the list of office bearers, whose transfer has been made an exception by the Shastry Award. Consequently, it cannot be said that for the transfer of Shri Bawa, the Bank should have given at least 5 clear working days' notice to the Association and consider representation, if any, made by the Association in that regard. Bank was also not to communicate its decision to Shri Bawa and the Association.

16. Whether the transfer of Shri Bawa was in consonance with the provisions of the Settlement Ex. M 1 and policy circulated by the Bank on 3-4-1990 ? For an answer facts pleaded by the Association are to be considered. As emerge out of records, it is not a case of the Association that Shri Bawa has not completed five years continuous service at NOIDA branch of the Bank. The Association has drawn an eerie silence on this point. Silence of the Association makes me to comment that Shri Bawa had completed five years continuous service at NOIDA branch of the Bank and his case squarely falls within the rotational transfer policy. However, rotational transfer can be made within the same station. Circular dated 3-4-1990 details that ‘station’ and ‘area’ means ‘station’ and ‘area’ as defined in the Memorandum of Settlement dated 22-4-1989. Settlement dated 22-4-1989 defines ‘station’ as the place within the limits covered by Corporation, Municipality, Notified Area Council or Gram Panchayat, as the case may be. Consequently, it is emerging over the record that rotational transfer of

Shri Bawa can be effected within the limits covered by Corporation, Municipality, Notified Area Council or Gram Panchayat. He was transferred from NOIDA branch to Tughlakabad, New Delhi branch of the Bank. Admittedly, Tughlakabad, New Delhi branch of the Bank does not fall within the limits covered by the aforesaid local authorities, viz. Corporation, Municipality, Notified Area Council or Gram Panchayat. Tughlakabad branch was outside the 'same station' as defined in the aforesaid memorandum of settlement. Therefore, it is apparent that Shri Bawa was transferred out of the limits of the 'same station' and his transfer was not in consonance with the provisions of settlement dated 3-4-1990.

17. Shri Bawa was transferred to Tughlakabad, New Delhi branch of the Bank on 17-4-1996. He served Tughlakabad, New Delhi branch of the Bank for long five years and thereafter sought voluntary retirement on 17-3-2001. Thus, it is not a case where the Bank can be commanded to recall the transfer order of Shri Bawa. As claimed by the Association, Shri Bawa was an active office bearer and his transfer order was passed with an intention to break the strength of the Association at a particular place. However, no evidence was brought by the Association that on transfer of Shri Bawa to Tughlakabad, New Delhi branch, the Association could not fill the gap from amongst its other members. Hence, the Tribunal cannot reach a conclusion that transfer of Shri Bawa was a means of victimization or unfair labour practice on the part of the Bank. However, the Bank exercised power of transfer in an arbitrary manner, which act made Shri Bawa to suffer. On the date of his transfer, family of Shri Bawa was residing at M-08, Sector 11, NOIDA, Gautam Budh Nagar, Uttar Pradesh. He was made to suffer hardship by the Bank, when his arbitrary transfer was effected. Except that fact, no other evidence is available to ascertain quantum of hardship faced by him. However, it is crystal clear that for long five years, Shri Bawa had to travel a long distance to reach his work place. Taking into account all these facts, I am of the considered opinion that the Bank effected transfer of Shri Bawa in violation of the provisions of Memorandum of Settlement dated 3-4-1990, which act is neither legal nor justified.

18. Reasons detailed above make it clear that the action of the Bank was uncalled for. Transfer order operated harshly on Shri Bawa and he suffered the agony for five years. Since, Shri Bawa was made to suffer, it would be expedient to command the Bank to pay a sum of Rs.50,000.00 to Shri Bawa as compensation for hardship suffered on account of the illegal transfer effected by the Bank. An award is, accordingly, passed in favour of the Association and against the Bank. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

Dated: 31-5-2012

नई दिल्ली, 3 जुलाई, 2012

का.आ. 2521.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कॉर्पोरेशन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण /श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 67/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-7-2012 को प्राप्त हुआ था।

[सं. एल-12012/128/2006-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 3rd July, 2012

S.O. 2521.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2007) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Corporation Bank and their workmen, which was received by the Central Government on 2-7-2012.

[No. L-12012/128/2006-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated: 13th June 2012

PRESENT

Shri S.N. NAVALGUND, PRESIDING OFFICER

C. R. No. 67/2007

IPARTY

Shri V. Govindaiah,
(Since Deceased Represented by
Smt. B. D. Meenakshi, wife, Shri
G. Hemanth Kumar, Son & Shri
G. Chetan Kumar, Son as LR's)
No. 18, 1st Cross,
Sakamma Lay Out,
B. Narayanaapura, K R Puram, Hobli
BANGALORE - 560016

II PARTY

The Chief Manager,
Corporation Bank,
Head Office,
Mangaladevi Temple Road,
P.B. No.88,
MANGALORE- 575001

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of the Industrial Disputes Act, 1947(14 of 1947) has referred this dispute vide order No. L-12012/128/2006-IR(B-II) dated 7-6-2007 for adjudication on the following Schedule :

SCHEDULE

“Whether the action of the Management of Corporation Bank in deleting the name of Shri V. Govindaiah, Peon Shivajinagar Branch, Bangalore w.e.f. 12-12-2005 from the records of the Bank by invoking Clause-33: Voluntary Cessation of Employment-8th Bi-partite Settlement dated 2-6-2005 is legal and justified? If not, to what relief the workman is entitled and from which date ?”

2. After receipt of the reference pursuant to the notices issued by this court the first party as well as the Second party while entering their appearance through their respective advocates filed the Claim Statement and Counter Statement respectively. The first party workman since died after filing of the Claim Statement Shri Muralidhar, advocate who was representing him by filing necessary application brought his wife and two sons as his legal representative on record.

3. It is claimed in the claim statement filed by the deceased first party workman that he who joined the services of the second party in the year 1984 as Peon served honestly and sincerely without giving any occasion to his higher officers to comment adversely on his work performance or conduct and as he fell sick and was taking treatment at Sri Krishna Clinic, Indiranagar, Bangalore from 24-5-2005 on wards he communicated the same through leave letter enclosing the Medical Certificate on 25-5-2005 and there after he took treatment at various hospital, including Ayurvedic Doctors and went on seeking extension of leave through letters sent by post from time to time and could not attend to his duties. The matter stood thus to his surprise he received letter from second party bearing No.PAD IRW : DISC : 2265:2005 dated 17-12-2005 stating therein that he having remained unauthorisedly absent for the period exceeding 90 days from 24-5-2005 without responding to the notices dated 1-10-2005 and 10-11-2005, by virtue of Clause 33 of the Bipartite Settlement dated 2-6-2005 he was deemed to have voluntarily vacated employment w.e.f. 12-12-2005. Immediately on receipt of the said letter he filed appeal to the General Manager of the second party and the same came to be rejected without considering the facts and circumstances on technical grounds that no appeal was maintainable against an order passed under Clause 33 of the Bipartite Settlement. Thereafter on his approach to the Assistant Labour Commissioner(C) for his intervention

since second party did not come forward to take back him to work the conciliation ended in failure as a result the Central Government made this reference for adjudication. With these assertion in the Claim statement he prayed to pass an award to hold that the action of the second party deleting his name w.e.f. 12-12-2005 from the records of the bank by invoking clause 33 Voluntary Cessation of employment is not just and legal and to direct for his reinstatement with full back wages continuity of service and all other consequential benefits.

4. In the counter statement filed for the second party through Chief Manager, Corporation Bank without disputing the fact that the first party workman joined its services in the year 1984 as a peon and was serving in its Shivajinagar Branch, Bangalore, denying his claim that his services was blemish-less contended that he was ‘censured’, ‘advised’ and ‘warned’ on three different occasions during the tenure of his service for his misconduct including misconduct of unauthorized absence and that w.e.f. 24-5-2005, he remained absent without prior sanction of leave/without prior intimation from the competent authority as such on 13-6-2005 the Chief Manager of Bangalore Shivajinagar branch sent a telegram to his last known address available in the branch records advising him to report to duty immediately and as the first party did not respond to the same the matter was reported to the Zonal Office, Bangalore and thereafter on 12-7-2005 the Zonal Office, Bangalore too issued a telegram to him advising him to report for duty immediately besides informing that his absence from duty w.e.f. 24-5-2005 is unauthorized and incase he remained absent on account of sickness he may appear before the Bank's Doctor, Dr. Nagesh Kamath, Subbaiah Road, Kodandaramapuram, Malleshwaram, Bangalore and in addition to that telegram it also sent a confirmation letter of even date to him to the last known address and inspite of the said telegram followed by the confirmatory letter the first party, workman did not join for his duties. Under the circumstances as provided by Clause 33 of the 8th Bipartite Settlement dated 2-6-2005 with regard to the Voluntary cessation of employment Chief Manager and Competent Authority issued notice dated 1-10-2005 while pointing out his unauthorized absence advising him to report for work within 30 days from the date of notice or to submit explanation for his absence within a period of 30 days and the said notice sent to his last known address i.e. No. 87, Motappanapalya, Indiranagar, Bangalore-560038 by registered post acknowledgment due returned undelivered by the postal authorities with the remarks ‘not claimed’ indicating thereby that he knowingly and consciously dodged delivery of the said communication and as he did not report for duty even thereafter with a view to give him a final opportunity another notice dated 10-11-2005. was sent to him once again advising him to report to duty further specifying that in the event of non

reporting for work within 30 days of the notice he would be deemed to have voluntarily vacated employment and as the said notice sent to his last known residential address at K.R.Puram Hobli, Bangalore North Taluk by registered post returned with remarks 'not known' and another copy of the same notice sent to his residential address at Indiranagar, Bangalore was not returned undelivered thereby indicating the said letter has been delivered to him and this notice was also displayed on the notice board of its Shivjinagar Branch, Bangalore on 12-11-2005. In spite of all these since the first party did not report for duty the competent authority vide his letter dated 17-12-2005 by virtue of Clause 33 of the Bipartite Settlement dated 2-6-2005 which reads as under:

“When an employee absents himself from work for a period of 90 or more consecutive days without prior sanction from the Competent Authority or beyond the period of leave sanctioned originally including any extension thereof or when there is satisfactory evidence that he has taken up employment in India or outside, the management at any time thereafter may give a notice to the employee at his last known address as recorded with the bank calling upon him to report for work within 30 days of the date of notice.

Unless the employee reports for work within 30 days of the notice or gives an explanation for his absence within the period of 30 days satisfying the management inter alia that he has not taken up another employment or avocation, the employee shall be given a further notice to report for work within 30 days of the notice failing which the employee will be deemed to have voluntarily vacated the employment on the expiry of the said notice and advised accordingly by registered post.

In the event of the employee submitting a satisfactory reply, he shall be permitted to report for work thereafter within 30 days from the date of expiry of the aforesaid notice without prejudice to the bank's right to take any action under the law or rules/conditions of service.

If the employee fails to report for work within this 30 days period, then he shall be given final notice to report for work within 30 days of this notice failing which, the employee will be deemed to have voluntarily vacated his employment on the expiry of the said notice and advised accordingly by registered post.

If an employee again absent himself for the second time within a period of 30 days without submitting any application and obtaining sanction, thereof, after reporting for duty in response to the first notice given after 90 days of absence or within the 30 days period granted to him for reporting to work on his submitting a satisfactory reply to the first notice, a further notice shall be given after 30 days of such absence giving him 30 days time to report. If

he fails to report for work or reports for work in response to the notice but absents himself a third time from work within a period of 30 days without prior sanction, his name shall be struck off from the rolls of the establishment after 30 days of such absence under intimation to him by registered post deeming that he was voluntarily vacated his appointment.

Any notice under this clause shall be in a language understood by the employee concerned. The notice shall be sent to him by registered post with acknowledgement due. Where the notice under this clause is sent to the employee by registered post acknowledgement due at the last recorded address communicated in writing by the employee and acknowledged by the bank, the same shall be deemed as good and proper service”, informed him that he was deemed to have voluntarily vacated his employment w. e.f. 12-12-2005 to his residential address at Indiranagar, Bangalore which was received by him accordingly his name came to be deleted from the rolls of the second party bank and thereafter appeal preferred by him dated 20-1-2006 was not acceded to and was communicated accordingly vide letter dated 23-3-2006 since there was no provision for appeal against the action taken under Clause 33 of the 8th Bipartite Settlement. Thus the second party substantiated its action of Voluntary Cessation of Employment of the first party and prayed for rejection of the reference.

5. After completion of the pleadings when the second party was called upon to substantiate its action, the learned advocate appearing for the second party while filing the affidavit of Shri S. Nagannathan, Son of R. Subramaniam, Manager(Law) at Zonal Office and examining him on oath as MW1 got marked office copy of the notice sent to the first party dated 1-10-2005 to his two residential address viz (i) No. 18, B. Narayanapura, K.R. Puram, Hobli, Bangalore North Taluk & (ii) No. 87, Motappanapalya, Indiranagar, Bangalore-560038; undelivered postal envelop addressed to first party with postal share “Not known returned to sender”; Office copy of the notice issued to first party dated 10-11-2005 to his two addresses; office copy of the letter addressed by the Manager to the Sr.Post Master, Head Post Office, Pandeshwar, Mangalore to inform the date of delivery of registered post AD letter addressed to first party dated 10-11-2005; the letter of reply received by the Manager from the post office dated 9-2-2007 the registered letter No.2430 being delivered to the addressee on 22-11-2005 by Indiranagar Post Office, Bangalore; letter addressed to the first party workman to his two residential addresses dated 17-12-2005 by virtue of clause 33 of the Bipartite Settlement dated 2-6-2005 he being deemed to have voluntarily vacated his employment w.e.f. 12-12-2005; Appeal memo submitted by the deceased first party workman to the Assistant General Manager(Appellate Authority)- received in his office on 20-1-2006; reply dated

17/23-3-2006 by the Chief Manager to the appeal received by him informing that clause 33 of 8th Bipartite Settlement dated 2-6-2005 on Voluntary Cessation of Employment being invoked against him and he deemed to have voluntarily vacated his employment and there shall be no provision of appeal against such action; extract of Clause 33 of 8 Bipartite Settlement dated 2-6-2005 with regard to the Voluntary Cessation of Employment; Copy of telegram dated 13-6-2005 of the Chief Manager of Shivajinagar Branch sent to first party; copy of the telegram sent to first party by the Zonal Office of the second party dated 12-7-2005 and four undelivered registered postal covers addressed to first party; Death certificate of first party issued on 17-6-2008 by the Chief Registrar of Birth and Death, Government of Karnataka; Copy of letter dated 8-3-2005 to first party for having settled his Gratuity and copy of letter addressed to wife of the first party having settled PF & other dues dated 24-10-2008 as Ex.M1 to M18 respectively. Inter alia the learned advocate appearing for the first party while filing the affidavit of Shri G. Hemanth Kumar, the son of the deceased first party examining him on oath as WW1 got marked the Photostat copy of leave application dated 24-5-2005 with medical certificate said to have sent under Certificate of Posting; Certificate of posting dated 25-5-2005 having posted a letter to the Manager, Corporation Bank, No.40, Lady Cruzon Road, Shivaji Nagar Branch, Bangalore; letter addressed by Senior Manager (Personnel Department) from zonal office of the second party bank addressed to M/s. Wockhardt Hospital & Heart Institute, Bangalore dated 16-5-2005 with a request to provide medical assistance to the deceased first party workman; x-ray reports issued by M/s. Wockhardt Hospital & Heart Institute, Bangalore pertaining to the deceased first party dated 17-6-2005; Blood test reports pertaining to the deceased first party dated 17-6-2005 issued by M/s. Wockhardt Hospital & Heart Institute, Bangalore; letter of appointment received by him(WW1) dated 27-12-2005 as Ex.W1 to W6 respectively

6. With the above pleadings, oral and documentary evidence placed on record by both the sides the arguments addressed by the learned advocates appearing for both the sides were heard.

7. The learned advocate appearing for the first party while taking me through the evidence on record urged that under Ex.W1 the deceased first party workman accompanied by medical certificate issued by Shri Krishna Clinic, Indiranagar, Bangalore applied for leave without pay and forwarded the same Under Certificate of Posting produced at Ex.W2 thereby it cannot be said that he remained absent unauthorisedly. He further urged that the other medical records produced by him do indicate that the first party workman was referred by the second party to the M/s. Wockhardt Hospital & Heart Institute, Bangalore and that he was under treatment in the said hospital as such in the absence of the communication to

the deceased first party workman that his request for leave without pay is rejected the second party would not have proceeded to take action as provided under Clause 33 of the Bipartite Settlement dated 2-6-2005. He further urged that the two notices purported to have been issued to the first party dated 1-10-2005 and 10-11-2005 were being not actually served on him, there was no occasion for him to respond to them or to report to the duties, presuming that his request for leave without pay on his application dated 24-5-2005 (Ex.W1) accepted as such the intimation by the second party dated 17-12-2005 his services are deemed to have Voluntarily vacated w.e.f. 12-12-2005 is unjustified and as he died on 10-6-2008 until then his services shall be held as continued and order for pension to his LRs with back wages may be ordered.

8. Inter alia the learned advocate appearing for the second party vehemently urged the fact that the first party workman remained absent w.e.f. 24-5-2005 being undisputed and even if it is taken that he had forwarded a leave letter dated 24-5-2005 as per Ex.W1 since he did not care to verify whether the same was received in the office of the second party and sanction was accorded, he remaining absent is not justified and after waiting for 90 days the two notices with gap of one month each being issued to his last known addresses through registered post as contemplated under Clause 33 of 8th Bipartite Settlement and the same returned unserved and he did not report to duty, the action taken under Clause 33 of the 8th Bipartite Settlement dated 2-6-2005 as the workman has deemed to have voluntarily vacated his employment is just and proper and there is no reason to interfere in the same. In support of this argument he placed heavy reliance on the decision of the Hon'ble Supreme Court reported in (2009) 9 SC cases 462 in the case of Regional Manager, Bank of Baroda Vs. Anita Nandrajog.

9. On appreciation of the pleadings, oral and documentary evidence brought on record by both the sides, in the light of the arguments put forward by the learned advocates I am of the considered view that the action of the management is legal and justified and there is no reason to interfere in the same for the following reasons :

Reasons

10. Since there is no dispute that the deceased first party workman did not attend to his duties from 24-5-2005 claiming that since he fell sick and started taking treatment at Sri Krishna Clinic, Indiranagar, Bangalore from the very day i.e.24-5-2005 he communicated the same through his leave letter the Photostat copy of which is produced at Ex.W1 said to have been forwarded to the Manager, Corporation Bank, Shivaji Nagar Branch, Bangalore under certificate of posting produced at Ex.W2. But there is no pleadings that the deceased first party, workman made any attempt whether such application forwarded by him reached the office of the Corporation Bank, Shivaji Nagar Branch, Bangalore and sanction has

been accorded on the said, application, thereby though there is some evidence that the deceased first party workman having forwarded an application Under Certificate of Posting to the Manager, Corporation Bank, Shivajinagar branch of the second party bank for leave without pay without mentioning till what date he intends to avail leave, since he did not make any attempt to verify whether such letter forwarded by him to the Manager was received by him and sanction has been accorded his absence is without sanction of leave. As per the medical certificate said to have been annexed to that application it is stated that he was under the treatment of Dr. Subramanya Bhat, Sri Krishna Clinic, Bangalore for Hypertension, Diabetics and right heart disorders from 24-5-2005. After forwarding such leave application the deceased first party workman if was unable to go to Shivajinagar branch of the second party bank where he was working to pursue his leave application he would have sent at least his wife or son, who have now come on record as his Legal Representative to see whether it was received and sanction accorded on that application. As per clause 33 of the 8th Bipartite Settlement dated 2-6-2005 when an employee absents himself for a period of 90 days or more consecutive days without prior sanction from the competent authority or beyond the period sanctioned originally including any extension of leave thereof the management is empowered to invoke the provisions of that clause, as such, in the absence of getting prior sanction of leave the deceased first party workman remaining absent amounts to unauthorized absence as contemplated under Clause 33 of 8th Bipartite Settlement and as the evidence on record after waiting for 90 days the management did issue two consecutive notices of 30 days each calling upon the deceased first party workman to report to duty to his last known addresses and as there was no response to the same its action taking that he has deemed to have voluntarily vacated his employment is just and legal. The attempt made by the counsel for the first party the deceased first party workman was referred to M/s. Wockhardt Hospital & Heart Institute, Bangalore is unacceptable. Because from the reading of Ex.W3 it indicates that M/s. Wockhardt Hospital & Heart Institute, Bangalore was one of the recognized hospital by the management it communicated by its letter dated 16-05-2005 produced at Ex.W3 the deceased first party workman being its employee he is entitled to be treated in that hospital. This letter being dated 16-5-2005 and the first party workman remained absent from 24-5-2005 alleging sickness this letter cannot be taken as one referring the deceased first party workman to M/s. Wockhardt Hospital & Heart Institute, Bangalore for examination on his application for leave without pay dated 25-5-2005. Though the evidence brought on record through Ex.W4 & W5 it indicate that the deceased first party workman was suffering from Hypertension and Diabetics that in itself is not sufficient to exonerate him from remaining unauthorisedly absent without getting

sanction of leave for such a longer period. Therefore, after he remaining absent for more than 90 days without getting leave sanctioned, the second party while invoking the provisions of Clause 33 of 8th Bipartite Settlement having taken the impugned action after causing two consecutive notices as contemplated under the provisions of that clause absolutely I find no reason to say that the said action is illegal and unjustified. Under the circumstances I have arrived at the conclusion that the action of the management of Corporation Bank deleting the name of Shri V. Govindaiah, Peon (now deceased), Shivajinagar Branch, Bangalore w.e.f. 12-12-2005 from the records of the bank by invoking Clause 33 :Voluntary Cessation of Employment - 8th Bipartite Settlement dated 2-6-2005 is legal and justified and that he or his legal representatives are not entitled for any relief.

11. In the result I pass the following award :

AWARD

The reference is rejected holding that the action of the management of Corporation Bank in deleting the name of Shri V. Govindaiah, Peon (now deceased), Shivajinagar Branch, Bangalore w.e.f. 12-12-2005 from the records of the bank by invoking Clause 33: Voluntary Cessation of Employment 8th Bipartite Settlement dated 2-6-2005 is legal and justified and that he or his legal representatives are not entitle for any relief.

S.N. NAVALGUND, Presiding Officer

नई दिल्ली, 3 जुलाई, 2012

का.आ. 2522.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीनियर सुपरिन्टेंडेंट, भोपाल डिवीजन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर/25/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-7-2012 को प्राप्त हुआ था।

[सं. एल-40012/08/1994-आईआर (डीयू)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 3rd July, 2012

S.O. 2522.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.CGIT/LC/R/25/95) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur, now as shown in the Annexure in the Industrial Dispute between the Sr. Superintendent, Bhopal Division, and their workman, which was received by the Central Government on 3-7-2012.

[No. L-40012/08/1994-IR (DU)]

SURENDRA KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

SHRI MOHD. SHAKIR HASAN, Presiding Officer

CASE No. CGIT/LC/R/25/95

Shri Pramod Kumar Rahal
S/o Shri Jagram Rahal,
Ambedkar Ward 35, Post Kathha Mill,
Thakurpura,
Shivpuri (MP) ...Workman

Versus

The Sr. Superintendent,
Telegraph Traffic,
Bhopal Division,
Bhopal ...Management

AWARD

Passed on this 21st day of May, 2012

1. The Government of India, Ministry of Labour vide its Notification No. L-40012/8/94-IR(DU) dated 20-1-95 has referred the following dispute for adjudication by this Tribunal :—

“Whether the action of the management of Senior Superintendent, Telegraph Traffic, Bhopal Division, Bhopal in terminating the service of Shri Pramod Kumar Rahal w.e.f. 1-3-93 is justified or not ? If not, to what relief the workman is entitled to ?”

2. The case of the workman in short is that he was appointed as messenger on 1-11-89 in the telegraph department at Sheopuri. On 1-3-93, he was orally terminated from the services by the management. He had not been given one month notice nor one month pay in lieu of notice nor any retrenchment compensation as required under Section 25-F of the Industrial Disputes Act, 1947 (in short the Act, 1947). It is stated that he had worked 240 days in each year. After termination from service, he is jobless. It is submitted that the workman be reinstated with back wages.

3. The management appeared in the case and filed written statement. The case of the management, inter alia, is that Shri Pramod Kumar Rahal was never appointed on the post of Telegraph Messenger at Telegraph office of Sheopuri nor any appointment letter was issued to him. It is stated that Shri Pramod Kumar Rahal was engaged intermittently as and when required on casual daily basis on the collector's rate of wages and when any regular Telegraph Messenger remained on leave. On these grounds, it is submitted that the workman is not entitled to any relief.

4. On the basis of the reference, the following issues are for adjudication—

I. Whether the action of the management in terminating the services of the workman w.e.f 1-3-93 is justified ?

II. To what relief the workman is entitled ?

5. The workman after appearing in the case filed statement of claim. Thereafter he did not file his evidence and became absent inspite of sufficient time was granted to him. Lastly the reference proceeded ex-parte against the workman on 27-1-11.

6. Issue No. I

To prove the case, the management has examined one witness. The management witness Shri P. N. Singh is Divisional Engineer, BSNL, Bhopal. He has supported the case of the management. He has stated that the workman was never appointed as Telegraph Messenger and no such appointment letter was issued. He has further stated that whenever any regular Telegraph Messenger was on leave, he was engaged on daily wages on collector's rate. He was engaged intermittently. His evidence is un rebutted. There is no reason to disbelieve his evidence. His evidence does not show that he was engaged 240 days in a calendar year specially preceding the date with reference. This shows that there is no violation of any provision of the Act, 1947. Thus this is decided against the workman and in favour of the management.

7. Issue No. II

On the basis of the discussion made above, it is clear that the workman is not entitled to any relief. Accordingly the reference is answered.

8. In the result, the award is passed without any order to costs.

9. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 4 जुलाई, 2012

का.आ. 2523.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एक्जिक्युटिव आफिसर, छावनी परिषद्, नसीराबाद और अदर्स के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अजमेर के पंचाट (संदर्भ संख्या सी.आई.टी.आर./07/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-7-2012 को प्राप्त हुआ था।

[सं. एल-13012/01/2008-आईआर (डी.यू.)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 4th July, 2012

S.O. 2523.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.CITR/07/2008) of the Central Government Industrial Tribunal, Ajmer as shown in the Annexure, in the Industrial Dispute between The Executive Officer, Chhavani Parishad Nasirabad and Others and their workman, which was received by the Central Government on 3-7-2012.

[No. L- 13012/01/2008-IR (DU)]

SURENDRA KUMAR, Section Officer

अनुबन्ध

श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर

पीठासीन अधिकारी—श्री. मनोज कुमार व्यास, आर.एच.जे.एस.

प्रकरण संख्या-सी.आई.टी.आर. 7/2008

रेफरेंस संख्या : एल-13012/1/2008 आई आर (डी यू)
दिनांक 18-7-2008

श्री महावीर सिंह पुत्र श्री गोपी सिंह द्वारा अनुसूचित जाति, जनजाति महासंघ, प्रदेश कार्यालय, धौलाभाटा मुख्य मार्ग, अजमेर (राज.)

—प्रार्थी

बनाम

1. दी एक्जिक्युटिव ऑफिसर, छावनी परिषद्, नसीराबाद, अजमेर

2. दी प्रिंसिपल डायरेक्टर, डिफेंस एस्टेट, दक्षिणी कमान, भारतीय थल सेना कार्यालय परिसर, पुणे

—अप्रार्थीगण

उपस्थिति

प्रार्थी की ओर से : श्री रामचन्द्र वर्मा, प्रतिनिधि ।

अप्रार्थीगण की ओर से : श्री रामस्वरूप, अधिवक्ता ।

अवार्ड

दिनांक 11-5-2012

1. श्रम विभाग, केन्द्र सरकार द्वारा इस न्यायालय के अधिनिर्णयार्थ निम्न रेफरेंस प्रेषित किया है:—

2. “Whether the action of the management of the Executive Officer, Chhavani Parishad, Nasirabad, in terminating the services of their workman Shri Mahaveer Singh w.e.f. 25-10-2002 is legal and justified ? If not, to what relief the workman is entitled to ?”

3. नोटिस के उपरांत उभयपक्ष उपस्थित आये । प्रार्थी महावीर सिंह की ओर से प्रस्तुत स्टेटमेंट ऑफ क्लेम में यह कहा गया है कि

प्रार्थी श्रमिक को अप्रार्थीगण ने दिनांक 1-7-2002 को बिना किसी युक्तियुक्त कारण व पूर्व सूचना दिये दैनिक वेतन भोगी श्रमिक के पद से हटा दिया जो विधि विरुद्ध है क्योंकि प्रार्थी श्रमिक ने दिनांक 1-7-2000 से 31-3-2001 तक तथा 1-9-2001 से 30-6-2002 तक नियमित रूप से काम किया जो 240 दिन से अधिक होने से श्रमिक को निर्धारित श्रमिक कानून व्यवस्था के अंतर्गत टेंपरेरी स्टेट्स अवार्ड होने से वह नियमित नौकरी पाने का हकदार हो गया था परंतु श्रमिक को निर्धारित नियमों की अवहेलना करते हुए काम से हटा दिया गया। आगे प्रार्थी ने यह कहा है कि उसने उक्त अवधि में दैनिक वेतन भोगी मस्टर रोल श्रमिक के रूप में साठ रुपये प्रतिदिन की मजदूरी पर काम किया उसके पूर्व भी श्रमिक समय-समय पर दैनिक वेतन भोगी श्रमिक के रूप में छावनी परिषद् नसीराबाद जिला अजमेर में कार्य करता रहा था । उक्त छावनी परिषद् में प्रभारी अधिकारी फोरमैन जल विभाग व बिजली विभाग श्री लीलाधर सिंधी थे जो श्रमिकों को जरूरत अनुसार रखते व हटाते थे । श्रमिकों को नियुक्त करना व हटाना सब मौखिक आदेशों से किया जाता था । और श्रमिकों को न तो कोई नियुक्ति आदेश दिया जाता था न ही निष्कासन आदेश दिया जाता था । दिनांक 1-7-2000 को श्रमिक का नियोजक पर सत्रह माह की मजदूरी बकाया थी जिसके लिये प्रार्थी ने वेतन भुगतान प्राधिकारी न्यायालय में दावा पेश किया जिससे रुष्ट होकर नियोजक ने प्रार्थी को दैनिक वेतन भोगी श्रमिक पद से मौखिक आदेश देकर हटा दिया । अप्रार्थी द्वारा उपस्थिति पंजिका, वरिष्ठता रजिस्टर व अन्य रिकार्ड संधारित नहीं किये जाते थे ताकि श्रमिक अपना दावा सिद्ध नहीं कर पाये । प्रार्थी के प्रतिवेदन के उत्तर में अप्रार्थी सं. 1 ने सहायक श्रम आयुक्त को जवाब दावा पेश किया जिसमें अप्रार्थी सं. 1 ने इस बात को स्वीकार किया कि प्रार्थी ने पैरा सं. 2 में वर्णित अनुसार 240 दिन से अधिक काम किया है । प्राधिकारी महोदय वेतन भुगतान अधिनियम के यहां प्रस्तुत दावे का निर्णय 27-2-04 को हुआ जिसमें न्यायालय ने प्रार्थी को सत्रह माह के बकाया वेतन/मजदूरी भुगतान करने के आदेश दिये जो 26,520 रुपये बनते थे तथा दो हजार रुपये मुआवजा देने के आदेश भी दिये जिससे स्पष्ट हो गया कि एक वर्ष में प्रार्थी ने उक्त कार्य किया है । सत्रह माह की सेवा की इस आदेश से पुष्टि होती है । अप्रार्थी ने गत पंद्रह-सोलह वर्षों से नयी नियुक्तियों हेतु तथा दैनिक वेतन भोगी श्रमिकों को नियमित/स्थाई करने के लिए कभी कोई प्रयास नहीं किया जबकि श्रमिक सदैव उसके लिये मांग कर रहे हैं । अप्रार्थी ने बिना किसी नियम की पालना किये मौखिक आदेश से प्रार्थी को सेवा से हटा दिया जो विधि विरुद्ध था । नियोजक ने प्राधिकारी महोदय वेतन भुगतान अधिनियम तथा सहायक श्रम आयुक्त को पेश किये गये जवाब दावे में बार-बार यह उल्लिखित किया कि श्रमिकों को बिना पूर्व अनुमति प्राप्त किये छावनी परिषद्, नसीराबाद सेवानिवृत्त फोरमैन श्री लीलाराम ने नियुक्त किये हैं । अतः उनकी मजदूरी और सेवा में वरिष्ठता आदि के लिए लीलाराम उत्तरदायी है जो उनका विभागीय आंतरिक विवाद है । श्रमिकों को उससे कोई संबंध नहीं है क्योंकि लीलाराम छावनी परिषद् का ही एक जिम्मेदार अधिकारी था । श्रमिकों से कार्य छावनी परिषद् में और छावनी परिषद् का करवाया गया था । प्रार्थी को

औद्योगिक विवाद अधिनियम के प्रावधानों के उल्लंघन में सेवामुक्त किया गया है। अतः निवेदन किया कि प्रार्थी के मौखिक निष्कासन आदेश को निरस्त करके श्रमिक को नियमित श्रमिक माना जाकर नियमित श्रमिक की वेतन शृंखला के अनुसार बकाया वेतन/मजदूरी का भुगतान करने तथा भविष्य में नियमानुसार नियमित/स्थायी श्रमिक के पद पर नियमित करने का अवार्ड पारित करे।

4. अप्रार्थीगण की ओर से जवाब में यह कहा गया है कि सही तथ्य यह है कि प्रार्थी ने 30-9-2001 तक ही कार्य किया है तथा प्रार्थी को दिनांक 1-7-02 को नहीं हटाया गया। प्रार्थी को लीलाराम जो जल विभाग एवं बिजली विभाग के प्रभारी अधिकारी थे उनके द्वारा मांग किये जाने पर कार्यालय आदेश के माध्यम से निर्धारित समय के लिए कार्य पर लगाया गया तथा जब तक के लिए कार्यालय आदेश जारी किये गये तब तक ही प्रार्थी ने कार्य किया। प्रार्थी ने एक कैलेंडर वर्ष में 240 दिन से अधिक कार्य नहीं किया है। प्रार्थी ने जो कार्य किया उसका विवरण अप्रार्थीगण के अनुसार जवाब के पैरा सं 1 में दिया गया है जो अवधि सितंबर 2001 तक की बतायी गयी है। आगे जवाब में यह कहा गया है कि वेतन भुगतान प्राधिकारी ने जो आदेश दिया, उक्त आदेश के विरुद्ध जिला न्यायालय अजमेर के यहां अपील प्रस्तुत की गयी। अपील उसी दशा में ग्रहण किये जाने योग्य थी जबकि उक्त राशि को वेतन भुगतान प्राधिकारी के समक्ष जमा नहीं करवाया जावे। ऐसी स्थिति में उक्त राशि जमा कराने के बाद जिला न्यायालय, अजमेर के समक्ष अपील पेश की गयी। यह श्रमिक की जिम्मेदारी है कि वह अपनी साक्ष्य से साबित करे कि उसने वास्तव में एक कैलेंडर वर्ष में 240 दिन का कार्य किया है। प्रार्थी ने कार्यालय आदेश के अनुसार ही कार्य किया है। अतः मौखिक आदेश से सेवा से हटाने का कथन गलत है। वर्तमान प्रकरण छंटनी का नहीं है। प्रार्थी ने जो कार्य किया है उसका भुगतान किया गया है तथा कार्यालय आदेश से ही प्रार्थी ने कार्य किया है। प्रार्थना पत्र आठ साल के विलंब से पेश किया गया है। आठ साल बाद प्रकरण को उठाना विधिसम्मत नहीं है। अतः खारिज किये जाने योग्य है। अतः क्लेम खारिज करने का निवेदन किया।

5. प्रार्थी की ओर से साक्ष्य में गवाह ए डब. 1 गणेश, ए डब. 2 मौ. रफीक व ए डब. 3 महावीर के बयान करवाये गये अप्रार्थी की ओर से साक्ष्य में गवाह एन ए डब. 1 विष्णुलाल तंवर के बयान करवाये गये। प्रार्थी की ओर से लिखित बहस भी प्रस्तुत की गयी है। उभयपक्ष की बहस सुनी गयी, पत्रावली का अवलोकन किया गया। बहस में प्रार्थी की ओर से यह कहा गया है कि प्रार्थी ने एक कैलेंडर वर्ष में 240 दिन से अधिक कार्य किया है। दिनांक 1-10-01 से 30-6-02 तक के कार्यालय आदेश तथा मस्टर रोल नियोजक जान-बूझकर उपलब्ध नहीं करा रहा है। बहस में यह भी कहा गया है कि प्रार्थी के प्रार्थना पत्र पर न्यायालय ने दिनांक 16-9-09 को अप्रार्थी नियोजक को आदेश दिया कि वह दिनांक 1-10-01 से 25-10-02 तक के मस्टर रोल तथा कार्यालय आदेश को पेश करे। अप्रार्थी नियोजक ने उक्त दस्तावेजी साक्ष्य को छिपाने हेतु दिनांक 3-11-09 को माननीय न्यायालय में एक शपथ पत्र पेश करके यह जाहिर किया कि न्यायालय द्वारा आदेशित दस्तावेज उसके पास उपलब्ध

नहीं है जबकि उक्त दस्तावेज मस्टर रोल थे जिन पर हस्ताक्षर होने के बाद वाउचर बनते हैं और जिनके आधार पर ही विभाग की रिटर्न खर्च के संबंध में सरकार को भेजी जाती है। ऐसे महत्वपूर्ण रिकार्ड का नहीं होना संभव नहीं है। उक्त रिकार्ड जान-बूझकर छिपाया जा रहा है। जब 2000 और 2001 के मस्टर रोल उपलब्ध हो तो अक्टूबर 2001 से अक्टूबर 2002 के दस्तावेज भी उपलब्ध होने चाहिए थे परंतु अप्रार्थी उक्त दस्तावेज प्रस्तुत नहीं करना चाहता है। अप्रार्थी ने दिनांक 17-12-09 को श्रमिक संघ को पत्र देकर बताया कि जनवरी 2001 से अक्टूबर 2002 तक का कोई मस्टर रोल कार्यालय आदेश संबंधित रिकार्ड उपलब्ध नहीं है जबकि न्यायालय में दिये गये जवाब में महावीर के द्वारा काम नहीं करने के कारण रिकार्ड उपलब्ध नहीं होना बताया है। प्रार्थी को 18-8-09 को एक पत्र लिखकर यह बताया कि 1-10-01 से 30-8-02 तक मस्टर रोल की प्रतिलिपियां उपलब्ध कराने को लेखापाल को आदेश दे दिये हैं। तलाश करने के बाद आपको प्रमाणित प्रतिलिपि उपलब्ध करा दी जाएगी परंतु आज दिनांक तक उपलब्ध नहीं करायी गयी है। इन विरोधाभासी कथनों से अप्रार्थी का शपथ पत्र गलत साबित होता है। अतः बहस में यह निवेदन किया कि अप्रार्थी द्वारा न्यायालय के आदेश के बावजूद उक्त दस्तावेज प्रस्तुत नहीं करने से प्रार्थी द्वारा अप्रार्थी संस्थान में उक्त अवधि में नियमित रूप से कार्य किया जाना माना जावे। बहस में यह भी कहा कि प्रार्थी के गवाहों के बयानों से भी प्रार्थी का प्रकरण साबित होता है। बहस में यह भी कहा गया है कि दिनांक 27-2-04 के वेतन भुगतान प्राधिकारी के निर्णय के बाद भी नियोजक द्वारा सेशन कोर्ट, अजमेर में मजदूरी का भुगतान बताकर अपने पक्ष में निर्णीत कराया जिसकी अपील माननीय राज. उच्च न्यायालय जयपुर में विचाराधीन है। उक्त केस मजदूरी भुगतान बाबत था और वर्तमान केस अवैध रूप से नौकरी से निष्कासन बाबत है। अंतिम बहस के दौरान अप्रार्थी द्वारा न्यायालय अपर जिला न्यायाधीश सं. 1, अजमेर के निर्णय दिनांक 5-3-10 की प्रति प्रस्तुत कर यह कहा कि उक्त निर्णय के अनुसार वेतन भुगतान प्राधिकारी महोदय के निर्णय को अपील में अपास्त कर दिया गया है तथा उक्त निर्णय का हवाला साक्ष्य में भी प्रार्थी की जिरह में आया है। अतः उक्त निर्णय को भी अवार्ड के विचारार्थ लिया जावे। इस संबंध में प्रार्थी का बहस में यह कथन है कि उक्त निर्णय अप्रार्थी को पहले पेश करना चाहिए था। उसके पास यह निर्णय प्रस्तुत करने के लिए कई मौके थे परंतु इस स्टेज पर यह पेश किया गया है तथा इस फैसले का वर्तमान प्रकरण से कोई संबंध नहीं है क्योंकि वह फैसला वेतन भुगतान के संबंध में था जबकि यह प्रकरण अवैध रूप से प्रार्थी को सेवामुक्त करने बाबत है तथा बहस में यह भी कहा कि इस अपील के निर्णय के विरुद्ध माननीय उच्च न्यायालय में प्रार्थी के द्वारा की गयी अपील लंबित है। अतः यह निर्णय जो वेतन भुगतान प्राधिकारी द्वारा पारित किया गया है, वह अंतिम नहीं हुआ है। अतः प्रस्तुत निर्णय से इस प्रकरण पर कोई विपरीत प्रभाव नहीं पड़ता है।

6. अप्रार्थी की ओर से बहस में यह कहा गया है कि यह साबित करने का भार प्रार्थी पर था कि उसने एक कैलेंडर वर्ष में 240 दिन या इससे अधिक अवधि तक कार्य किया है परंतु मौखिक व

दस्तावेजी साक्ष्य के अनुसार यह साबित नहीं होता है। अतः प्रार्थी किसी भी लाभ को पाने का अधिकारी नहीं है। जिन मस्टर रोल व अन्य दस्तावेजों को प्रस्तुत करने का माननीय न्यायालय का आदेश था उसके संबंध में पूर्व में ही शपथ पत्र प्रस्तुत कर दिया गया है कि उक्त मस्टर रोल व अन्य दस्तावेज उपलब्ध नहीं होने के कारण प्रस्तुत नहीं किये जा सकते। अतः इससे प्रार्थी को कोई लाभ प्राप्त नहीं होता है। प्रार्थी को अपने क्लेम के समर्थन में स्वयं दस्तावेज प्रस्तुत करने चाहिए थे, परंतु प्रस्तुत दस्तावेजी साक्ष्य से प्रार्थी का क्लेम पुष्ट नहीं होता है। बहस में यह भी कहा गया है कि वेतन भुगतान प्राधिकारी के निर्णय के विरुद्ध अप्रार्थी द्वारा जो अपील की गयी थी वह स्वीकार हो गयी है। अतः इस आधार पर भी प्रार्थी का क्लेम खारिज किये जाने योग्य है। प्रार्थी द्वारा क्लेम आठ वर्षों के विलंब के बाद पेश किया गया है। अतः इस देरी के आधार पर भी क्लेम खारिज करने का निवेदन किया गया है। बहस में यह भी कहा गया है कि जिस निर्णय की प्रति प्रस्तुत की गयी है, वह कोई दस्तावेज की श्रेणी में नहीं आता है। अतः अंतिम बहस के समय भी उस पर विचार किया जा सकता है तथा स्वयं प्रार्थी ने साक्ष्य में यह माना है कि अपील स्वीकार हो गयी है। अंत में अप्रार्थीगण की ओर से निम्नलिखित न्यायिक दृष्टांत पेश किया गया, जिसका न्यायालय ने ससम्मान अवलोकन किया :-

1- 2007 एस बी आर 9 पेज नं. 1

7. उपरोक्त विवाद बिंदु के संदर्भ में साक्ष्य का विवेचन किया गया। गवाह ए डब. 1 गणेश ने मुख्य परीक्षा में यह कहा है कि महावीर सिंह को जानता हूं उसने मेरे साथ छावनी परिषद् नसीराबाद में दैनिक वेतन भोगी के रूप में मस्टर रोल पर 1-7-2000 से 31-3-01 तक तथा 1-9-01 से 30-6-02 तक तथा उसके बाद भी करीब एक वर्ष तक नियमित रूप से काम किया। हमें साठ रुपये प्रतिदिन के हिसाब से मजदूरी देय थी। रविवार को भी काम लिया जाता था जिसकी हाजरी नहीं भरी जाती थी। श्रमिकों को लंबे समय तक भुगतान नहीं करने के कारण आपसी विवाद राजस्थान उच्च न्यायालय में विचाराधीन है। मस्टर रोल श्रमिकों की नियुक्ति मौखिक आदेश से करने तथा हटाने के लिए तत्कालीन फोरमैन लीलाराम सिंधी को छावनी परिषद् में अधिकृत कर रखा था। छावनी परिषद् में बड़ी तादाद में पद रिक्त हैं। काम को सुचारू रूप से चलाने के लिए मस्टर रोल पर श्रमिक रखे जाते हैं। जिरह में गवाह ने कहा कि यह सही है कि मैंने महावीर व अन्य नौ-दस लोगों के साथ वेतन निर्धारण अधिकारी के समक्ष क्लेम पेश किया था जिसमें भुगतान का आदेश हुआ था। यह सही है कि इस आदेश को अपर जिला न्यायाधीश द्वारा अपील में निरस्त कर दिया गया। यह मुझे पता नहीं कि छावनी परिषद् किसी कर्मचारी को स्थाई नियुक्ति नहीं दे सकता क्योंकि ऐसी नियुक्ति सेशन कमांड पूना से होती है।

8. गवाह ए डब. 2 मो. रफीक ने मुख्य परीक्षा में कहा है कि महावीर सिंह ने मेरे साथ वर्ष 2000, 2001 तथा 2002 में साठ रुपये प्रतिदिन मजदूरी पर मस्टर रोल पर काम किया था। तत्कालीन फोरमैन लीलाराम हमारी उपस्थिति भरते थे। जिरह में कहा है कि

यह सही है कि मेरा नाम रफीक मोहम्मद पुत्र अब्दुल गनी नहीं है बल्कि मेरा नाम जो आज मैंने लिखा है वह है।

9. गवाह ए डब. 3 महावीर सिंह प्रार्थी ने मुख्य परीक्षा में अपने क्लेम के तथ्यों की पुष्टि करते हुए बयान दिये हैं तथा यह कहा है कि अप्रार्थी द्वारा कार्यालय आदेश तथा मस्टर रोल उपलब्ध नहीं होने का कथन करते हुए मेरे द्वारा किये गये कार्य को छुपाया गया है। सूचना के अधिकारी के तहत मांगे गये दिनांक 1-9-01 से 30-6-02 तक के मस्टर रोल तथा भुगतान वाउचर अप्रार्थी उपलब्ध नहीं होना बताकर टालता रहा बल्कि इतने महत्वपूर्ण दस्तावेज का उपलब्ध नहीं होना विश्वसनीय नहीं है। केवल सत्यता को छुपाने के ध्येय से यह लिखा जाता रहा है। वेतन भुगतान प्राधिकारी के निर्णय दिनांक 27-2-04 की अपील अप्रार्थी के हक में निर्णीत कर देने से मैंने राजस्थान उच्च न्यायालय खंड पीठ, जयपुर में अपील की है जो विचाराधीन है। जिरह में गवाह ने कहा है कि यह सही है कि अधिशासी अधिकारी छावनी परिषद् द्वारा कार्यालय आदेश के उपरांत भी लीलाराम दैनिक वेतन भोगी कर्मचारी नियुक्ति करता था। यह सही है कि मैंने स्टेटमेंट ऑफ क्लेम में मद सं. 2 में बताये गये कार्यालय आदेश की प्रति प्रस्तुत नहीं की है। यह गलत है कि मैंने एक कैलेंडर वर्ष में 240 दिन से अधिक कार्य नहीं किया हो बल्कि किया है। यह सही है कि अपर जिला न्यायालय ने वेतन भुगतान प्राधिकारी के आदेश को निरस्त कर दिया। इस आदेश के विरुद्ध हमने हाईकोर्ट में अपील कर रखी है। अपील में कोई स्थगन आदेश हो तो मुझे जानकारी नहीं है।

10. अप्रार्थी गवाह एन ए डब. 1 विष्णु लाल तंवर ने मुख्य परीक्षा में यह कहा है कि संबंधित विभाग के फोरमैन लीलाराम कार्य हेतु छावनी परिषद् से कार्यालय आदेश से अस्थाई कर्मचारी निर्धारित अवधि के लिए रखता था बिना आदेश के लीलाराम कर्मचारियों को सेवा में नहीं रख सकता है। प्रार्थी ने सितंबर 2001 तक ही कार्य किया है। इसके बाद कार्य नहीं किया तथा कभी भी एक कैलेंडर वर्ष में 240 दिन कार्य नहीं किया है। वेतन भुगतान प्राधिकारी के आदेश दिनांक 27-2-04 के विरुद्ध जिला न्यायाधीश में अपील प्रस्तुत की थी जो दिनांक 5-3-10 को स्वीकार की गयी। प्रार्थी ने वर्ष 2001 में कुल 214 दिन कार्य किया है जिसका विवरण शपथ पत्र के पैरा सं. 7 में अंकित है। जिरह में कहा है कि दैनिक वेतन भोगी कर्मचारी मस्टर रोल पर हाजरी भरते थे। इसके अलावा उपस्थिति का कोई रजिस्टर नहीं रखते थे। श्रमिकों को कार्यालय आदेश की प्रतियां नहीं दी जाती थीं। मस्टर रोल पर जब पेमेंट करते थे तब उस पर एक कॉपी लगा देते थे। केंद्रीय लोक सूचना अधिकारी कार्यालय अधीक्षक व केंद्रीय अपीलीय अधिकारी अधिशासी अधिकारी होता है। मस्टर रोल अकाउंट्स ब्रांच में उपलब्ध है। सूचना के अधिकार के तहत प्रार्थी ने मस्टर रोल की कॉपी मांगी थी जो बाद में उपलब्ध करा दी गयी। दिनांक 1-10-01 से 24-10-02 तक का रिकार्ड मस्टर रोल उपलब्ध नहीं है क्योंकि प्रार्थी ने इस अवधि में हमारे अधीन कार्य नहीं किया।

11. सर्वप्रथम प्रकरण में यह बिंदु तय किया जाना है कि क्या प्रार्थी द्वारा सेवामुक्ति से पूर्व एक कैलेंडर वर्ष में 240 दिन या इससे

अधिक कार्य अप्रार्थी संस्थान के अधीन किया गया। इस संबंध में प्रार्थी की ओर से मौखिक व दस्तावेजी साक्ष्य प्रस्तुत की गयी है। प्रार्थी ने अपनी मौखिक साक्ष्य में यह कहा है कि उसने अप्रार्थीगण के अधीन एक वर्ष में 240 दिन से अधिक कार्य किया है। इस संबंध में प्रार्थी ने यह कहा है कि जो मस्टर रोल की प्रतियां उपलब्ध थीं वे प्रस्तुत कर दी गयी हैं। शेष दस्तावेज अप्रार्थीगण द्वारा उन्हें नहीं दिये गये हैं इस कारण से वे पूर्ण दस्तावेजी साक्ष्य प्रस्तुत नहीं कर पाये हैं। यह साबित करने का भार प्रार्थी पर था कि उसने एक कैलेंडर वर्ष में 240 दिन या इससे अधिक अप्रार्थीगण के अधीन कार्य किया है। प्रार्थी ने उपरोक्त साक्ष्य विवेचन के अनुसार अप्रार्थीगण से दस्तावेज उपलब्ध कराने का प्रार्थना पत्र प्रस्तुत किया था जिस पर न्यायालय द्वारा दिनांक 16-9-09 को आदेश पारित कर अप्रार्थीगण को निर्देश दिये गये हैं कि वे आदेश में वर्णित अवधि के मस्टर रोल व भुगतान वाउचर न्यायालय में प्रस्तुत करें। अप्रार्थीगण की ओर से न्यायालय के उक्त आदेश दिनांक 16-9-09 की अनुपालना में आदेश में वर्णित अवधि के मस्टर रोल व भुगतान वाउचर न्यायालय में प्रस्तुत नहीं किये गये हैं तथा इस संबंध में दिनांक 3-11-09 को एक शपथ पत्र प्रस्तुत किया गया जिसमें यह कहा कि भुगतान वाउचर व मस्टर रोल दस्तावेज उपलब्ध नहीं है तथा प्रार्थी ने सितंबर 2001 के बाद उनके यहां कार्य नहीं किया। इस प्रकार अप्रार्थीगण द्वारा न्यायालय के आदेश की अनुपालना में आदेश में वर्णित अवधि के मस्टर रोल व भुगतान वाउचर प्रस्तुत नहीं करते हुए यह शपथ पत्र प्रस्तुत किया गया कि आदेशित दस्तावेज उपलब्ध नहीं है। इस संबंध में अप्रार्थीगण के साक्ष्य में गवाह विष्णुलाल तंवर एन ए डब. 1 ने जिरह में यह माना है कि श्रमिकों को कार्यालय आदेश की प्रतियां नहीं दी जाती थीं। दैनिक वेतन भोगी कर्मचारी मस्टर रोल पर हाजरी भरते थे। इसके अलावा उपस्थिति का कोई रजिस्टर नहीं रखते थे। मस्टर रोल पर जब पेमेंट करते थे तब उस पर कार्यालय आदेश की एक कॉपी लगा देते थे। मस्टर रोल अकाउंट्स ब्रांच में उपलब्ध है। सूचना के अधिकार के तहत प्रार्थी ने मस्टर रोल की कॉपी मांगी थी जो बाद में उपलब्ध करा दी गयी। इस प्रकार साक्ष्य में अप्रार्थीगण के गवाह ने यह स्वीकार किया है कि दैनिक वेतन भोगी कर्मचारी की हाजरी सिर्फ मस्टर रोल पर होती थी तथा मस्टर रोल अकाउंट्स ब्रांच में उपलब्ध होना भी गवाह ने माना है। अतः जब मस्टर रोल अप्रार्थीगण के पास उपलब्ध है तो न्यायालय के आदेश के उपरांत भी मस्टर रोल व भुगतान वाउचर न्यायालय में प्रस्तुत नहीं करने का कोई उचित कारण दर्शित नहीं होता है। जो शपथ पत्र अप्रार्थीगण द्वारा न्यायालय में प्रस्तुत किया गया है कि दस्तावेज उपलब्ध नहीं है वह पर्याप्त होना प्रकट नहीं होता है क्योंकि साक्ष्य में गवाह एन ए डब. 1 ने यह माना है कि मस्टर रोल अकाउंट्स ब्रांच में उपलब्ध है। गवाह ने यह कहा है कि 1-10-01 से 24-10-02 तक का रिकार्ड मस्टर रोल उपलब्ध नहीं है क्योंकि प्रार्थी ने इस अवधि में हमारे अधीन काम नहीं किया परंतु अप्रार्थीगण को न्यायालय के आदेश के अनुसार मस्टर रोल व भुगतान वाउचर आदेशित अवधि के न्यायालय में प्रस्तुत करने चाहिए थे ताकि यह स्थिति स्पष्ट होती कि प्रार्थी ने उक्त अवधि में अप्रार्थी संस्थान में कार्य किया है अथवा नहीं। सूचना के अधिकार तहत जो पत्र प्रार्थी को

दिया गया एवं जिसकी प्रति पत्रावली पर संलग्न है उसमें यह कहा गया कि उक्त अवधि के मस्टर रोल लेखापाल द्वारा तलाश करने के बाद उपलब्ध करा दिये जावेंगे। इस प्रकार सूचना के अधिकार के तहत मस्टर रोल तलाश करने के बाद उपलब्ध कराने का कथन प्रार्थी को किया गया तथा गवाह एन ए डब्यू. 1 ने जिरह में यह स्वीकार किया कि मस्टर रोल अकाउंट्स ब्रांच में उपलब्ध है। अतः इन परिस्थितियों में न्यायालय के आदेश के उपरांत भी उक्त अवधि के मस्टर रोल व भुगतान वाउचर पेश नहीं करने की स्थिति में अप्रार्थीगण के विरुद्ध यह प्रतिकूल उपधारणा किये जाने योग्य है कि यदि उक्त दस्तावेज न्यायालय में प्रस्तुत होते तो प्रार्थी द्वारा एक कैलेंडर वर्ष में अप्रार्थीगण के अधीन 240 दिन की अवधि का कार्य किया जाना साबित हो जाता। यह सही है कि उक्त तथ्य साबित करने का भार प्रार्थी पर था कि उसने 240 दिन या उससे अधिक कार्य किया है, परंतु उपरोक्त विवेचन के अनुसार न्यायालय के आदेश के उपरांत भी आदेशित दस्तावेज न्यायालय में प्रस्तुत नहीं करने व उसके संबंध में कोई उचित स्पष्टीकरण नहीं होने की स्थिति में अप्रार्थीगण के विरुद्ध प्रतिकूल उपधारणा किये जाने योग्य होना साबित होता है। अतः प्रार्थी यह साबित करने में सफल रहा है कि उसने अप्रार्थीगण के अधीन एक कैलेंडर वर्ष में 240 दिन या इससे अधिक कार्य किया।

12. जहां तक अप्रार्थीगण का यह कथन है कि प्राधिकारी वेतन भुगतान अधिनियम न्यायालय के आदेश दिनांक 27-2-04 के विरुद्ध उनके द्वारा प्रस्तुत अपील स्वीकार कर ली गयी है तथा अपील के निर्णय को विचारार्थ लिया जावे, यह सही है कि अप्रार्थीगण द्वारा जो निर्णय की प्रति प्रस्तुति की गयी है, वह किसी दस्तावेज की श्रेणी में बल्कि न्यायालय का निर्णय है जिस पर विचार किये जाने में कोई विधिक आपत्ति नहीं है परंतु यह भी स्वीकृत स्थिति है कि साक्ष्य में यह आया है कि उक्त अपील के निर्णय के विरुद्ध माननीय उच्च न्यायालय में प्रार्थीगण द्वारा अपील की गयी है तथा वह लंबित बतायी गयी है। इसके अलावा उक्त निर्णय की प्रति जो प्रस्तुत की गयी है वह बकाया वेतन के संबंध में मामले से संबंधित वेतन भुगतान प्राधिकारी के निर्णय के बारे में है जबकि यह प्रकरण अवैध सेवामुक्ति से संबंधित है। प्रस्तुत प्रकरण का निर्णय इस निर्णय में प्रस्तुत साक्ष्य के आधार पर गुणावगुण पर किया जाना है। अतः यह बिंदु तदनुसार निर्णीत किया जाता है।

13. उपरोक्त साक्ष्य विवेचन के अनुसार साक्ष्य में यह आया है कि प्रार्थी की सेवामुक्ति से पूर्व धारा 25 एफ औद्योगिक विवाद अधि. के प्रावधानों की पालना नहीं की गयी। उक्त सेवामुक्ति से पूर्व प्रार्थी को न तो एक माह का नोटिस दिया गया न ही उसकी एवज में एक माह का वेतन भुगतान किया गया न ही मुआवजा दिया गया। अतः धारा 25 एफ की पालना नहीं होना साबित होता है। इन परिस्थितियों में इस आधार पर प्रार्थी की सेवामुक्ति अवैध होना साबित होता है।

14. इस प्रकरण के रेफरेंस में प्रार्थी की सेवामुक्ति की दिनांक 25-10-02 दर्शायी गयी है। प्रार्थी ने क्लेम में यह कहा है कि उसे दिनांक 1-7-02 को अवैध रूप से सेवामुक्ति कर दिया गया। इस

प्रकार स्वयं प्रार्थी ने क्लेम में यह कहा है कि उसने दिनांक 30-6-02 तक अप्रार्थीगण के अधीन कार्य किया तथा दिनांक 1-7-02 को उसे नौकरी से हटा दिया गया, जो विधि-विरुद्ध था। अतः प्रार्थी की सेवामुक्ति की दिनांक 25-10-02 की बजाय दिनांक 1-7-02 होना भी साबित होता है।

15. उपरोक्त विवेचन के अनुसार प्रार्थी की सेवामुक्ति धारा 25 एफ की पालना नहीं किये जाने से अवैध होना साबित होता है। अब प्रार्थी क्या अनुतोष प्राप्त करने का अधिकारी है, इस संबंध में विचार किया जाना है। माननीय सर्वोच्च न्यायालय ने विभिन्न न्यायिक निर्णयों में यह विधिक सिद्धांत प्रतिपादित किया है कि धारा 25 एफ की पालन किये बिना सेवामुक्ति के मामलों में अनुतोष प्रदान किये जाने से पूर्व यह देखा जाना आवश्यक है कि नियोजन की प्रकृति क्या थी, नियोजन की अवधि क्या थी तथा प्रकरण के अन्य तथ्य व परिस्थितियां क्या थी, तत्पश्चात् ही प्रार्थी को मिलने वाले अनुतोष के संबंध में निर्णय किया जाना न्यायोचित है। इस संबंध में माननीय सर्वोच्च न्यायालय ने एम.पी.एड./त्रिभुवन 2007 एफ एल आर 113 पेज 886 में यह अभिनिर्धारित किया है कि :-

“Reinstatement—At one point of time such a relief used to be automatically granted—But now a change in said trend is found in recent decisions—Relief distinguished between a daily wagger who does not hold a post and a permanent employee—Nature of appointment, post are relevant factors.

Industrial Disputes Act, 1947—Sections 25 F and 11 A—Termination of services—Non-compliance of section 25-F—Respondent was a temporary employee, working from time to time with breaks in service—Worked from 13-12-91 to 1-3-1994—His services terminated and Section 25 F not complied with—Appellant employer is directed to pay a sum of Rs. 75,000 by way of compensation.”

16. इसी प्रकार माननीय सर्वोच्च न्यायालय ने 2011 ए आई आर एस सी डब्ल्यू 6747 में यह अभिनिर्धारित किया है कि:-

Industrial Disputes Act (14 of 1947), S. 25 F—Respondent working as daily wagger—Had worked merely for more than 240 days—Service terminated without notice or retrenchment compensation—Granting relief of reinstatement-Not proper—Monetary compensation held would meet ends of justice (para 6)”.

17. उपरोक्त तथ्यात्मक व विधिक विवेचन के अनुसार प्रार्थी दैनिक वेतन भोगी के रूप में कार्यरत तथा उसकी नियुक्ति किसी स्थाई पद पर नहीं थी तथा उसके द्वारा दी गयी सेवाओं की अवधि व प्रकरण के समस्त तथ्यों परिस्थितियों को देखते हुए प्रार्थी को सेवा में पुनर्स्थापित किया जाना न्यायोचित नहीं है परंतु प्रार्थी एकमुश्त क्षतिपूर्ति राशि अप्रार्थीगण से प्राप्त करने का अधिकारी होना पाया जाता है। अतः विवाद का उत्तर तदनुसार दिया जाना न्यायसंगत होगा।

आदेश

फलतः विवाद का उत्तर इस प्रकार से दिया जाता है कि प्रबंधन, अधिशासी अधिकारी, छावनी परिषद्, नसीराबाद द्वारा प्रार्थी

महावीरसिंह की सेवायें दिनांक 25-10-02 के स्थान पर 1-7-02 से समाप्त किया जाना साबित होता है तथा प्रार्थी की उक्त सेवामुक्ति अनुचित और अवैध होना भी साबित होता है। प्रकरण के समस्त तथ्यों एवं परिस्थितियों को देखते हुए प्रार्थी सेवा में पुनर्स्थापित होने का अधिकारी नहीं है परंतु प्रार्थी अप्रार्थीगण से एकमुश्त क्षतिपूर्ति राशि कुल चालीस हजार रुपये मात्र प्राप्त करने का अधिकारी होगा। अप्रार्थीगण उक्त कुल राशि चालीस हजार रुपये मात्र प्रार्थी को अवार्ड के प्रकाशन की दिनांक से दो माह की अवधि में अदा करें।

मनोज कुमार व्यास, न्यायाधीश

नई दिल्ली, 4 जुलाई, 2012

का.आ. 2524.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एक्जीक्यूटिव ऑफिसर, छावनी परिषद्, नसीराबाद और अर्दस के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अजमेर के पंचाट (संदर्भ संख्या सी.आई.टी.आर./08/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-7-2012 को प्राप्त हुआ था।

[सं. एल-13012/02/2008-आई आर (डीयू)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 4th July, 2012

S.O. 2524.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.CITR/08/2008) of the Central Government Industrial Tribunal, Ajmer as shown in the Annexure in the Industrial Dispute between the Executive Officer, Chhavani Parishad, Nasirabad and others and their workman, which was received by the Central Government on 3-7-2012.

[No. L-13012/02/2008-IR (DU)]

SURENDRA KUMAR, Section Officer

अनुबन्ध

श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर

पीठासीन अधिकारी—श्री मनोज कुमार व्यास, आर.एच.जे.एस.

प्रकरण संख्या—सी.आई.टी.आर. 08/2008

रेफरेंस संख्या—13012/2/2008-आई आर (डीयू) दिनांक 18-7-2008

श्री देवीलाल पुत्र स्व. श्री पन्नालाल द्वारा अनुसूचित जाति जनजाति महासंघ, प्रदेश कार्यालय, धौलाभाटा मुख्य मार्ग, अजमेर (राज.)

—प्रार्थी

4. अप्रार्थी को ओर से जवाब में यह कहा गया है कि सही तथ्य यह है कि प्रार्थी ने 30-9-2001 तक ही कार्य किया था तथा प्रार्थी को दिनांक 1-7-2002 को नहीं हटाया गया। प्रार्थी को लीलाराम जो प्रभारी अधिकारी थे उनके द्वारा मांग किए जाने पर कार्यालय आदेश के माध्यम से निर्धारित समय के लिए कार्य पर लगाया गया तथा जब तक के लिए कार्यालय आदेश जारी किए गए तब तक ही प्रार्थी ने कार्य किया। प्रार्थी ने एक कैलेंडर वर्ष में 240 दिन से अधिक कार्य नहीं किया है। प्रार्थी ने जो कार्य किया उसका विवरण अप्रार्थीगण के अनुसार जवाब के पैरा सं. 1 में दिया गया है जो अवधि सितम्बर, 2001 तक की बताई गई है। आगे जवाब में यह कहा गया है कि वेतन भुगतान प्राधिकारी ने जो आदेश दिया, उक्त आदेश के विरुद्ध जिला न्यायालय अजमेर के यहां अपील प्रस्तुत की गई। उक्त अपील उक्त राशि को वेतन भुगतान प्राधिकारी के समक्ष जमा कराने की स्थिति में ही ग्रहण किए जाने योग्य थी। अतः ऐसी परिस्थिति में उक्त राशि जमा कराने के बाद जिला न्यायालय, अजमेर

- के समक्ष अपील पेश की गई। प्रार्थी ने कार्यालय आदेश के अनुसार ही निर्धारित अवधि के लिए कार्य किया है। वर्तमान में लीलाराम सेवानिवृत्त हो चुका है। प्रार्थी ने आठ साल बाद प्रकरण उठाया है जो विधि-सम्मत नहीं है। अप्रार्थी ने औद्योगिक विवाद अधिनियम के प्रावधानों का उल्लंघन नहीं किया है। अतः क्लेम खारिज करने का निवेदन किया।
5. प्रार्थी की ओर से साक्ष्य में गवाह ए डब.1 उमरदीन से जिरह नहीं हुई है। अतः इस गवाह के बयान पढ़े जाने योग्य नहीं हैं। प्रार्थी की ओर से गवाह ए डब.2 देवीलाल व ए डब. 3 गोपाल के बयान करवाए गए। अप्रार्थी की ओर से साक्ष्य में गवाह एन ए डब.1 विष्णुलाल तंवर के बयान करवाए गए। प्रार्थी की ओर से लिखित बहस भी प्रस्तुत की गई है। उभयपक्ष की बहस सुनी गई, पत्रावली का अवलोकन किया गया। बहस में प्रार्थी की ओर से यह कहा गया है कि प्रार्थी ने एक कैलेंडर वर्ष में 240 दिन से अधिक कार्य किया है। दिनांक 1-10-2001 से 30-6-2002 तक के कार्यालय आदेश तथा मस्टर रोल नियोजक जान-बूझकर उपलब्ध नहीं करा रहा है। बहस में यह भी कहा गया है कि प्रार्थी के प्रार्थना पत्र पर न्यायालय ने दिनांक 16-9-2009 को अप्रार्थी नियोजक को आदेश दिया कि वह दिनांक 1-10-01 से 25-10-02 तक के मस्टर रोल तथा कार्यालय आदेश को पेश करे। अप्रार्थी नियोजक ने उक्त दस्तावेजी साक्ष्य को छिपाने हेतु दिनांक 3-11-2009 को माननीय न्यायालय में एक शपथ पत्र पेश करके यह जाहिर किया कि न्यायालय द्वारा आदेशित दस्तावेज उसके पास उपलब्ध नहीं हैं जबकि उक्त दस्तावेज मस्टर रोल थे जिन पर हस्ताक्षर होने के बाद वाउचर बनते हैं और जिनके आधार पर ही विभाग की रिटर्न खर्चे के संबंध में सरकार को भेजी जाती है। ऐसे महत्वपूर्ण रिकार्ड का नहीं होना संभव नहीं है। उक्त रिकार्ड जान-बूझकर छिपाया जा रहा है। जब 2000 और 2001 के मस्टर रोल उपलब्ध हों तो अक्टूबर, 2001 से अक्टूबर, 2002 के दस्तावेज भी उपलब्ध होने चाहिए थे परन्तु अप्रार्थी उक्त दस्तावेज प्रस्तुत नहीं करना चाहता है। अप्रार्थी ने दिनांक 6-4-2009 तथा 23-12-2010 को श्रमिक संघ को पत्र देकर बताया कि जनवरी, 2001 से अक्टूबर, 2002 तक का कोई मस्टर रोल कार्यालय आदेश संबंधित रिकार्ड उपलब्ध नहीं है जबकि न्यायालय में दिए गए जवाब में देवीलाल के द्वारा 1-10-2001 से 30-6-2002 तक काम नहीं करने के कारण रिकार्ड उपलब्ध नहीं होना बताया है। प्रार्थी को 18-8-2009 को एक पत्र लिखकर यह बताया कि 1-10-2001 से 30-8-2002 तक मस्टर रोल की प्रतिलिपियां उपलब्ध कराने को लेखापाल को आदेश दे दिए हैं तलाश करने के बाद आपको प्रमाणित प्रतिलिपि उपलब्ध करा दी जाएगी परन्तु आज दिनांक तक उपलब्ध नहीं कराई गई है। इन विरोधाभासी कथनों से अप्रार्थी का शपथ पत्र गलत साबित होता है अतः बहस में यह निवेदन किया कि प्रार्थी द्वारा न्यायालय के आदेश के

बावजूद उक्त दस्तावेज प्रस्तुत नहीं करने से प्रार्थी द्वारा अप्रार्थी संस्थान में उक्त अवधि में नियमित रूप से कार्य किया जाना माना जावे। बहस में यह भी कहा कि प्रार्थी के गवाहों के बयानों से भी प्रार्थी का प्रकरण साबित होता है। बहस में यह भी कहा गया है कि दिनांक 27-2-2004 के वेतन भुगतान प्राधिकारी के निर्णय के बाद अपील माननीय राज. उच्च न्यायालय, जयपुर में विचाराधीन है। उक्त केस मजदूरी बाबत था और वर्तमान केस अवैध रूप से नौकरी से निष्कासन बाबत है। अंतिम बहस के दौरान अप्रार्थी द्वारा न्यायालय अपर जिला न्यायाधीश सं. 1. अजमेर के निर्णय दिनांक 5-3-2010 की प्रति प्रस्तुत कर यह कहा कि उक्त निर्णय के अनुसार वेतन भुगतान प्राधिकारी महोदय के निर्णय को अपील में अपास्त कर दिया गया है तथा उक्त निर्णय का हवाला साक्ष्य में भी प्रार्थी की जिरह में आया है अतः उक्त निर्णय को भी अवार्ड के विचारार्थ लिया जावे। इस संबंध में प्रार्थी का बहस में यह कथन है कि उक्त निर्णय अप्रार्थी को पहले पेश करना चाहिए था। उसके पास यह निर्णय प्रस्तुत करने के लिए कई मौके थे परन्तु इस स्टेज पर यह पेश किया गया है तथा इस फैसले का वर्तमान प्रकरण से कोई संबंध नहीं है क्योंकि वह फैसला वेतन भुगतान के संबंध में था जबकि यह प्रकरण अवैध रूप से प्रार्थी को सेवामुक्त करने बाबत है तथा बहस में यह भी कहा कि इस अपील के निर्णय के विरुद्ध माननीय उच्च न्यायालय में प्रार्थी के द्वारा की गई अपील लंबित है। अतः यह निर्णय जो वेतन भुगतान प्राधिकारी द्वारा पारित किया गया है, वह अंतिम नहीं हुआ है। अतः प्रस्तुत निर्णय से इस प्रकरण पर कोई विपरीत प्रभाव नहीं पड़ता है।

6. अप्रार्थी की ओर से बहस में यह कहा गया है कि यह साबित करने का भार प्रार्थी पर था कि उसने एक कैलेंडर वर्ष में 240 दिन या इससे अधिक अवधि तक कराया गया है परन्तु मौखिक व दस्तावेजी साक्ष्य के अनुसार यह साबित नहीं होता है। अतः प्रार्थी किसी भी लाभ को पाने का अधिकारी नहीं है। जिन मस्टर रोल व अन्य दस्तावेजों को प्रस्तुत करने का माननीय न्यायालय का आदेश था उसके संबंध में पूर्व में ही शपथ पत्र प्रस्तुत कर दिया गया है कि उक्त मस्टर रोल व अन्य दस्तावेज उपलब्ध नहीं होने के कारण प्रस्तुत नहीं किए जा सकते। अतः इससे प्रार्थी को कोई लाभ प्राप्त नहीं होता है। प्रार्थी को अपने क्लेम के समर्थन में स्वयं दस्तावेज प्रस्तुत करने चाहिए थे परन्तु प्रस्तुत दस्तावेजी साक्ष्य से प्रार्थी का क्लेम पुष्ट नहीं होता है बहस में यह भी कहा गया है कि वेतन भुगतान प्राधिकारी के निर्णय के विरुद्ध अप्रार्थी द्वारा जो अपील की गई थी वह स्वीकार हो गई है। अतः इस आधार पर भी प्रार्थी का क्लेम खारिज किए जाने योग्य है। प्रार्थी द्वारा क्लेम आठ वर्षों के विलंब के बाद पेश किया गया है। अतः इस देरी के आधार पर भी क्लेम खारिज करने का निवेदन किया गया

है। बहस में यह भी कहा गया है कि जिस निर्णय की प्रति प्रस्तुत की गई है, वह कोई दस्तावेज की श्रेणी में नहीं आता है। अतः अंतिम बहस के समय भी उस पर विचार किया जा सकता है तथा स्वयं प्रार्थी ने साक्ष्य में यह माना है कि अपील स्वीकार हो गई है। अंत में अप्रार्थीगण की ओर से निम्नलिखित न्यायिक दृष्टांत पेश किया गया, जिसका न्यायालय ने ससम्मान अवलोकन किया :—

1-2007 एस बी आर 9 पेज नं. 1

7. उपरोक्त विवाद बिंदु के संदर्भ में साक्ष्य का विवेचन किया गया। गवाह ए डब. 1 देवीलाल प्रार्थी ने क्लेम के तथ्यों की पुष्टि करते हुए मुख्य परीक्षा में यह कहा है कि 1-1-2002 से 31-10-2002 तक का रिकार्ड उपलब्ध नहीं कराया। मस्टर रोल की प्रमाणित प्रतियां देने से अप्रार्थी कतरा रहा है क्योंकि उक्त दस्तावेज देने पर मेरा पंद्रह माह का नियमित सेवकाल पूरा हो जाता है। अप्रार्थी द्वारा प्रस्तुत शपथ पत्र के अनुसार मस्टर रोल तथा भुगतान वाउचर्स उपलब्ध नहीं होना बताया गया है जबकि मस्टर रोल पर ही श्रमिकों के हस्ताक्षर होकर भुगतान वाउचर बनाकर केन्द्र राज्य सरकार को खर्च के ब्यौरे के साथ भेजा जाता है। अतः शपथ पत्र स्वतः ही झूठा साबित होता है इसी प्रकार की सूचना मांगने पर प्रार्थी को एक पत्र भेजकर जाहिर किया कि मस्टर रोल उनके यहां दूढ़ने पर नहीं मिल रहे हैं और उसके लिए लेखाकार को आदेश भी दिए हैं ताकि तीन दिन में उक्त मस्टर रोल उपलब्ध करावे जो आज तक नहीं दिए गए हैं। श्रमिकों ने छावनी परिषद् नसीराबाद में लीलाराम फोरमैन है, उसके निर्देशानुसार काम किया। लीलाराम तथा छावनी परिषद् नसीराबाद का विवाद उनका घरेलू विवाद है। जिरह में गवाह ने कहा है कि यह सही है कि छावनी परिषद् ने मुझे मौखिक नियुक्ति दी थी। लीलाराम जी ने मौखिक नियुक्ति दी थी। यह सही है कि अधिशासी अधिकारी दैनिक वेतन भोगी कर्मचारियों को अमुक अवधि के लिए कार्य पर रखने हेतु कार्यालय आदेश जारी करते हैं तब ही लीलाराम कर्मचारियों को दैनिक वेतन पर रख सकता था। यह सही है कि मैंने दैनिक वेतन पर 153 दिन काम किया था उसके पश्चात् का रिकार्ड उपलब्ध नहीं कराया गया। यह सही है कि वेतन भुगतान अधिकारी के आदेश के विरुद्ध छावनी परिषद् द्वारा जिला न्यायालय में अपील की गयी थी जो अपर जिला न्यायाधीश ने छावनी परिषद् के पक्ष में स्वीकार किया था। सेशन न्यायालय में निर्णय के विरुद्ध माननीय उच्च न्यायालय में लंबित है। यह सही है कि मैंने सूचना के अधिकार के तहत समस्त दस्तावेज मांगे थे। जिसमें से आधे दस्तावेज मुझे छावनी परिषद् द्वारा दिये गये आधे दस्तावेज देने के संबंध में मैंने अपील की थी जिसके संबंध में 24-6-2010 को निर्णय पारित किया गया। यह मुझे पता नहीं कि छावनी परिषद् में समस्त नियुक्तियों स्टेशन कमांडेंट पूना से होती हो। यह गलत है कि मैंने

240 दिन काम नहीं किया। यह सही है कि 240 दिन काम करने बाबत कोई दस्तावेज पेश नहीं किये।

8. गवाह ए डब. 3 गोपाल ने मुख्य परीक्षा में कहा है कि मैं देवीलाल को जानता हूँ उसने मेरे साथ छावनी परिषद् नसीराबाद में दैनिक वेतन भोगी श्रमिक के रूप में काम किया। हमें काम पर रखने के लिए लिखित आदेश नहीं दिये थे। श्रमिकों को मजदूरी का भुगतान मस्टर रोल पर राजस्व टिकट लगाकर उस पर हस्ताक्षर कर दिया जाता था। मस्टर रोल श्रमिकों को नियुक्तियां मौखिक आदेश से दी जाती थी और हटाया जाता था उसके लिये लीलाराम फोरमैन को अधिकृत किया जाता था। छावनी परिषद् में गत पंद्रह-सोलह वर्षों से नयी नियुक्ति बंद है। जिरह में कहा है कि देवीलाल के साथ मैंने भी वेतन भुगतान अधिकारी के समक्ष क्लेम पेश किया था जिसमें भुगतान का आदेश हुआ था। उस आदेश के विरुद्ध छावनी परिषद् में जिला न्यायालय में दायर की थी जिसे स्वीकार कर 1,85,000 रु. की राशि को निरस्त कर दिया था। यह मुझे पता नहीं कि छावनी परिषद् किसी कर्मचारी को स्थाई नियुक्ति नहीं दे सकती है।
9. अप्रार्थी गवाह एन ए डब. 1 विष्णु लाल तंवर ने मुख्य परीक्षा में यह कहा है कि संबंधित विभाग के फोरमैन लीलालधर कार्य हेतु छावनी परिषद् से कार्यालय आदेश से अस्थाई कर्मचारी निर्धारित अवधि के लिए रखता था। इसके अलावा लीलाराम छावनी परिषद् के आदेश के बिना कर्मचारियों को सेवा में नहीं रख सकता है। प्रार्थी ने सितंबर 2001 तक ही कार्य किया है। प्रार्थी ने कभी भी एक कैलेंडर वर्ष में 240 दिन कार्य नहीं किया है। वेतन भुगतान प्राधिकारी द्वारा दिनांक 27-2-04 को जो आदेश दिया उसके विरुद्ध माननीय जिला न्यायाधीश अजमेर के समक्ष अपील प्रस्तुत की थी जो अपर जिला न्यायाधीश सं. 1, अजमेर द्वारा दिनांक 5-3-10 को स्वीकार की गयी। प्रार्थी ने वर्ष 2001 में कुल 122 दिन ही कार्य किया है। जिसका विवरण शपथ पत्र के पैरा सं. 7 में दिया गया है। जिरह में कहा है कि देवीलाल को नौकरी से हटाने के बाद जो श्रमिक दैनिक वेतन पर कार्य कर रहे थे। उनके लिये मस्टर रोल चालू था। दैनिक वेतन भोगी कर्मचारी मस्टर रोल पर हाजरी भरते थे। इसके अलावा उपस्थिति का कोई रजिस्टर नहीं रखते थे। श्रमिकों को कार्यालय आदेश की प्रतियां नहीं दी जाती थी। मस्टर रोल पर जब पेमेंट करते थे जब उस पर एक कॉपी लगा देते थे। मस्टर रोल अकाउंट्स ब्रांच में उपलब्ध है। सूचना के अधिकार के तहत प्रार्थी ने मस्टर रोल की कॉपी मांगी थी जो बाद में उपलब्ध करा दी गयी। दिनांक 1-10-01 से 24-10-02 तक का रिकार्ड मस्टर रोल उपलब्ध नहीं है क्योंकि प्रार्थी ने इस अवधि में हमारे अधीन कार्य नहीं किया। इस समय छावनी परिषद्, नसीराबाद में पचास प्रतिशत पद खाली नहीं हैं।

10. सर्वप्रथम प्रकरण में यह बिंदु तय किया जाना है कि क्या प्रार्थी द्वारा सेवामुक्ति से पूर्व एक कैलेंडर वर्ष में 240 दिन या इससे अधिक कार्य अप्रार्थी संस्थान के अधीन किया गया। इस संबंध में प्रार्थी की ओर से मौखिक व दस्तावेजी साक्ष्य प्रस्तुत की गयी है। प्रार्थी ने अपनी मौखिक साक्ष्य में यह कहा है कि उसने अप्रार्थीगण के अधीन एक वर्ष में 240 दिन से अधिक कार्य किया है। इस संबंध में प्रार्थी ने यह कहा है कि जो मस्टर रोल की प्रतियां उपलब्ध थीं वे प्रस्तुत कर दी गयी हैं। शेष दस्तावेज अप्रार्थीगण द्वारा उन्हें नहीं दिये गये हैं। इस कारण से वे पूर्ण दस्तावेजी साक्ष्य प्रस्तुत नहीं कर पाये हैं। यह साबित करने का भार प्रार्थी पर था कि उसने एक कैलेंडर वर्ष में 240 दिन या इससे अधिक अप्रार्थीगण के अधीन कार्य किया है। प्रार्थी ने उपरोक्त साक्ष्य विवेचन के अनुसार अप्रार्थीगण से दस्तावेज उपलब्ध कराने का प्रार्थना पत्र प्रस्तुत किया था जिस पर न्यायालय द्वारा दिनांक 16-9-09 को आदेश पारित कर अप्रार्थीगण को निर्देश दिये गये कि वे आदेश में वर्णित अवधि के मस्टर रोल व भुगतान वाउचर न्यायालय में प्रस्तुत करें। अप्रार्थीगण की ओर से न्यायालय के उक्त आदेश दिनांक 16-9-09 की अनुपालना में आदेश में वर्णित अवधि के मस्टर रोल व भुगतान वाउचर न्यायालय में प्रस्तुत नहीं किये गये हैं तथा इस संबंध में दिनांक 3-11-09 को एक शपथ पत्र प्रस्तुत किया गया जिसमें यह कहा कि भुगतान वाउचर व मस्टर रोल दस्तावेज उपलब्ध नहीं हैं तथा प्रार्थी ने सितंबर, 2001 के बाद उनके यहां कार्य नहीं किया। इस प्रकार अप्रार्थीगण द्वारा न्यायालय के आदेश की अनुपालना में आदेश में वर्णित अवधि के मस्टर रोल व भुगतान वाउचर प्रस्तुत नहीं करते हुए यह शपथ पत्र प्रस्तुत किया गया कि आदेशित दस्तावेज उपलब्ध नहीं है। इस संबंध में अप्रार्थीगण की साक्ष्य में गवाह विष्णुलाल तंवर एन ए डब. 1 ने जिरह में यह माना है कि श्रमिकों को कार्यालय आदेश की प्रतियां नहीं दी जाती थी। दैनिक वेतन भोगी कर्मचारी मस्टर रोल पर हाजरी भरते थे। इसके अलावा उपस्थिति का कोई रजिस्टर नहीं रखते थे। मस्टर रोल पर जब पेमेंट करते थे तब उस पर कार्यालय आदेश की एक कॉपी लगा देते थे। मस्टर रोल अकाउंट्स ब्रांच में उपलब्ध है। सूचना के अधिकार के तहत प्रार्थी ने मस्टर रोल की कॉपी मांगी थी जो बाद में उपलब्ध करा दी गयी। इस प्रकार साक्ष्य में अप्रार्थीगण के गवाह ने यह स्वीकार किया है कि दैनिक वेतन भोगी कर्मचारी की हाजरी सिर्फ मस्टर रोल पर होती थी तथा मस्टर रोल अकाउंट्स ब्रांच में उपलब्ध होना भी गवाह ने माना है। अतः जब मस्टर रोल अप्रार्थीगण के पास उपलब्ध है तो न्यायालय के आदेश के उपरांत भी मस्टर रोल व भुगतान वाउचर न्यायालय में प्रस्तुत नहीं करने का कोई उचित कारण दर्शित नहीं होता है। जो शपथ पत्र अप्रार्थीगण द्वारा न्यायालय में प्रस्तुत किया गया है कि दस्तावेज उपलब्ध नहीं है वह पर्याप्त

होना प्रकट नहीं होता है क्योंकि साक्ष्य में गवाह एन ए डब. 1 ने यह माना है कि मस्टर रोल अकाउंट्स ब्रांच में उपलब्ध है। गवाह ने यह कहा है कि 1-10-01 से 24-10-02 तक का रिकार्ड मस्टर रोल उपलब्ध नहीं है क्योंकि प्रार्थी ने इस अवधि में हमारे अधीन काम नहीं किया परंतु अप्रार्थीगण को न्यायालय के आदेश के अनुसार मस्टर रोल व भुगतान वाउचर आदेशित अवधि में न्यायालय में प्रस्तुत करने चाहिए थे ताकि यह स्थिति स्पष्ट होती कि प्रार्थी ने उक्त अवधि में अप्रार्थी संस्थान में कार्य किया है अथवा नहीं। सूचना के अधिकार के तहत जो पत्र प्रार्थी को दिया गया एवं जिसकी प्रति पत्रावली पर संलग्न है उसमें यह कहा गया कि उक्त अवधि के मस्टर रोल लेखापाल द्वारा तलाश करने के बाद उपलब्ध करा दिये जावेंगे। इस प्रकार सूचना के अधिकार के तहत मस्टर रोल तलाश करने के बाद उपलब्ध कराने का कथन प्रार्थी को किया गया तथा गवाह एन ए डब. 1 ने जिरह में यह स्वीकार किया कि मस्टर रोल अकाउंट्स ब्रांच में उपलब्ध है। अतः इन परिस्थितियों में न्यायालय के आदेश के उपरांत भी उक्त अवधि के मस्टर रोल व भुगतान वाउचर पेश नहीं करने की स्थिति में अप्रार्थीगण के विरुद्ध यह प्रतिकूल उपधारणा किये जाने योग्य है कि यदि उक्त दस्तावेज न्यायालय में प्रस्तुत होते तो प्रार्थी द्वारा एक कैलेंडर वर्ष में अप्रार्थीगण के अधीन 240 दिन की अवधि का कार्य किया जाना साबित हो जाता। यह सही है कि उक्त तथ्य साबित करने का भार प्रार्थी पर था कि उसने 240 दिन या उससे अधिक कार्य किया है परंतु उपरोक्त विवेचन के अनुसार न्यायालय के आदेश के उपरांत भी आदेशित दस्तावेज न्यायालय में प्रस्तुत नहीं करने व उसके संबंध में कोई उचित स्पष्टीकरण नहीं होने की स्थिति में अप्रार्थीगण के विरुद्ध प्रतिकूल उपधारणा किये जाने योग्य होना साबित होता है। अतः प्रार्थी यह साबित करने में सफल रहा है कि उसने अप्रार्थीगण के अधीन एक कैलेंडर वर्ष में 240 दिन या इससे अधिक कार्य किया।

11. जहां तक अप्रार्थीगण का यह कथन है कि प्राधिकारी वेतन भुगतान अधिनियम न्यायालय के आदेश दिनांक 27-2-04 के विरुद्ध उनके द्वारा प्रस्तुत अपील स्वीकार कर ली गयी है तथा अपील के निर्णय को विचारार्थ लिया जावे। यह सही है कि अप्रार्थीगण द्वारा जो निर्णय की प्रति प्रस्तुत की गयी है, वह किसी दस्तावेज की श्रेणी में बल्कि न्यायालय का निर्णय है जिस पर विचार किये जाने में कोई विधिक आपत्ति नहीं है परंतु यह भी स्वीकृत स्थिति है कि साक्ष्य में यह आया है कि उक्त अपील के निर्णय के विरुद्ध माननीय उच्च न्यायालय में प्रार्थीगण द्वारा अपील की गयी है तथा वह लंबित बतायी गयी है। इसके अलावा उक्त निर्णय की प्रति जो प्रस्तुत की गयी है वह बकाया वेतन के संबंध में मामले से संबंधित वेतन भुगतान प्राधिकारी के निर्णय के बारे में है जबकि यह प्रकरण अवैध सेवामुक्ति से संबंधित

[illegible]

5. इसके पश्चात् साक्ष्य प्रार्थी में महावीर प्रसाद शर्मा, विनोद कुमार गोबरानी व दिलीप शर्मा के शपथ-पत्र पेश हुए, अप्रार्थी द्वारा उनसे जिरह की गयी व साक्ष्य अप्रार्थी में कासमास डेंग का शपथ-पत्र पेश हुआ, प्रार्थी पक्ष द्वारा उससे जिरह की गयी ।

6. उभयपक्ष की साक्ष्य समाप्ति के पश्चात् पत्रावली बहस अन्तिम हेतु नियत की जाती रही। प्रार्थीगण कर्मकार की ओर से लम्बे समय से अर्थात् 22-10-10 से आज दिन तक ना तो प्रार्थीगण कर्मकार उपस्थित आये हैं व ना ही उनके प्रतिनिधि उपस्थित आये हैं, अतः ऐसी परिस्थिति में अप्रार्थी के प्रतिनिधि की बहस सुनी गयी व पत्रावली पर आयी हुई साक्ष्य व सामग्री का परिशीलन किया गया।

7. अब जहाँ तक प्रार्थीगण कर्मकार द्वारा अप्रार्थी संस्थान में 30 फीट से ज्यादा ऊँचाई पर काम करने पर ऊँचाई भत्ता जो वेतन का 20% दिये जाने की मांग की गयी है, इस सम्बन्ध में प्रार्थीगण गवाह महावीरप्रसाद शर्मा, विनोद कुमार गोरानी व दिलीप शर्मा ने अपनी जिरह में इस बात को स्वीकार किया है कि हमारी जानकारी में ऐसा नियम नहीं है जिसमें कि हाईट एलाउन्स देना हमारे सेवा नियमों में रहा हो। ठेकेदार उनके श्रमिकों को हाईट एलाउन्स का भुगतान करता है एवं हम भी रेस्ट के प्रावधान के स्थान पर हाईट एलाउन्स चाहते हैं। इसके अलावा यह भी जानकारी नहीं है कि अप्रार्थी संस्थान के किसी अन्य कर्मचारी को हाईट एलाउन्स प्राप्त होता हो। गवाह विनोद कुमार गोशनी ने भी जिरह में यही स्वीकार किया कि प्रतिपक्षी संस्थान में कहीं पर भी हाईट एलाउन्स कर्मचारियों को नहीं दिया जाता है। गवाह दिलीप शर्मा ने भी जिरह में कथन किया कि हम कारपोरेशन के कर्मचारी हैं और हमारे ऊपर कारपोरेशन के नियम लागू होते हैं। तारापुर प्लान्ट में हाईट एलाउन्स के बदले में रेस्ट दिया जा रहा था। अन्य किसी प्लान्ट में हाईट एलाउन्स दिये जाने का मुझे पता नहीं।

8. इसके विपरीत अप्रार्थी के गवाह ने मुख्य परीक्षा शपथ-पत्र में कथन किया है कि हमारी परियोजना में ठेकेदार द्वारा नियोजित किये गये कर्मचारी जिन्हें न्यूनतम वेतन अधिनियम के तहत न्यूनतम वेतन प्रतिमाह दिया जाता है, वे यदि 10 मीटर से अधिक ऊँचाई पर काम करते हैं तो उन्हें 20% अतिरिक्त वेतन राशि का भुगतान ऊँचाई पर काम करने के एवज में दिया जाता है; परन्तु हमारे संस्थान में कार्यरत कर्मचारी जो न्यूनतम वेतन अधिनियम की परिधि में नहीं आते हैं, उन्हें ऊँचाई भत्ता दिये जाने का प्रावधान नहीं है। इस सम्बन्ध में नोटिफिकेशन दि. 12-7-94 की प्रति प्रदर्श एम. 1 है। इन तीनों कर्मकारों पर भी न्यूनतम वेतन अधिनियम के प्रावधान लागू नहीं होते हैं। जिरह में इस गवाह ने कथन किया कि प्रार्थीगण के ड्यूटी चार्ट उनके विभाग द्वारा दिये गये हैं तथा ड्यूटी चार्ट के हिसाब से ही काम करना पड़ता है। वर्तमान में भी इसी प्रकार 8 घन्टे ड्यूटी दी जाती है तो उसके एवज में कोई रेस्ट या एलाउन्स नहीं दिया जाता है। हमारा विभाग कोरपोरेट ऑफिस मुम्बई से ही सम्बद्ध है। प्रदर्श डब्ल्यू. 12 लागू नहीं किया गया है।

9. इस प्रकार उभयपक्ष की दस्तावेजी व मौखिक साक्ष्य से यह स्पष्ट हो जाता है कि प्रार्थीगण कर्मकार जिस 20% अधिक वेतन की मांग 10 मीटर से अधिक ऊँचाई पर अप्रार्थी के संस्थान में काम किये जाने पर कर रहे हैं वह केवल उन्हीं कर्मकारों को दिया जाता है जो ठेकेदार के द्वारा नियोजित किये गये हों एवं जिन्हें कि न्यूनतम वेतन अधिनियम के तहत न्यूनतम मजदूरी ही मिलती हो। तीनों ही प्रार्थीगण न्यूनतम मजदूरी प्राप्त नहीं कर उनके पद के अनुरूप विहित वेतन श्रृंखला प्राप्त कर रहे हैं, अतः ये प्रार्थीगण न्यूनतम वेतन मजदूरी

अधिनियम के प्रावधानों से शासित नहीं होते हैं। इन प्रार्थीगण की ओर से कहीं पर यह भी प्रकट नहीं किया गया कि भारत सरकार के नाभिकीय उर्जा विभाग की अन्य यूनिटों में 10 मीटर से अधिक ऊँचाई पर काम करने वाले नियमित कर्मकारों को वेतन की 20% अधिक राशि का भुगतान दिया जा रहा हो, ना ही ऐसा कोई सरकार का या उर्जा विभाग का आदेश पेश किया गया। अतः आदेश के अभाव में इन कर्मकारों को यह राशि प्राप्त करने का अधिकारी नहीं माना जा सकता। कर्मकारों की ओर से प्रदर्श डब्ल्यू. 12 जो पेश किया गया है वह उर्जा विभाग का ही परिपत्र है, इसमें भी कर्मकारों के ऊँचाई पर काम करने पर ना तो कोई अतिरिक्त कार्य भत्ता दिये जाने का प्रावधान है एवं ना ही उसके बदले कोई रेस्ट दिये जाने का प्रावधान है, अपितु केवल मात्र जितने समय कर्मकार ऊँचाई पर काम करने के बाद नीचे उतरेगा तो उस दिन के लिए शेष अवधि के लिए उससे अन्य कोई काम नहीं लिया जाकर वह अवधि उसके लिए रेस्ट मानी जायेगी, ऐसा इस परिपत्र दि. 21-1-97 में वर्णित है।

10. अतः ना तो प्रदर्श डब्ल्यू. 12 व ना ही प्रदर्श एम. कहीं पर भी अप्रार्थी संस्थान में नियमित रूप से नियोजित कर्मकारों को इस प्रकार के वेतन का 20% अतिरिक्त भत्ता दिये जाने का प्रावधान है एवं ना ही अप्रार्थी संस्थान के किसी ऐसे अन्य कर्मकार को यह भत्ता दिया जा रहा है जो 30 फीट से अधिक ऊँचाई पर काम कर रहा है। अतः जब दोनों ही स्थितियाँ साबित नहीं हो रही हैं तो फिर केवल मात्र इस आधार पर कि न्यूनतम मजदूरी के तहत ठेकेदार उन कर्मकारों को 20% अधिक राशि दे रहा है तो इस सम्बन्ध में इस न्यायाधिकरण का यह अभिमत है कि वे कर्मकार न्यूनतम वेतन अधिनियम के प्रावधानों से शासित होते हैं एवं वर्तमान प्रार्थीगण कर्मकार उस अधिनियम के प्रावधान से शासित नहीं होते हैं। अतः उनके साथ तुलना इन प्रार्थीगण की नहीं की जा सकती एवं ना ही इन प्रार्थीगण को दैनिक वेतन भोगी कर्मकार की श्रेणी में रखा जा सकता है।

11. अतः ऊपर किये गये समस्त विवेचन के आधार पर इस न्यायाधिकरण की राय में प्रार्थीगण अपनी दस्तावेजी व मौखिक साक्ष्य से यह तथ्य साबित करने में विफल रहे हैं कि वे अप्रार्थी संस्थान में 30 फीट से अधिक ऊँचाई पर काम करने पर अपने वेतन की 20% अतिरिक्त राशि या विकल्प में क्षतिपूर्क विश्राम प्राप्त करने के अधिकारी हों।

12. मामले में अन्तिम आदेश पारित करें उससे पहले हम प्रार्थीगण कर्मकार की इस दलील में बल पाते हैं कि अप्रार्थी द्वारा अपने कर्मकारों को 30 फीट से अधिक ऊँचाई पर काम करने पर उस दिन के लिए नीचे उतरने के बाद अन्य कोई काम नहीं लेना व शेष अवधि को विश्राम माने जाने का जो परिपत्र दि. 21-1-97 को जारी किया गया है, उसमें वास्तव में विसंगति है कि यदि कोई एक कर्मकार केवल एक घन्टे ऊपर काम करके नीचे उतर जाता है तो उसे तो शेष अवधि के लिए विश्राम मिल जायेगा एवं यदि कोई कर्मकार पूरे ही आठ घन्टे ऊपर काम करके नीचे उतरता है तो उसे कोई विश्राम नहीं मिला। अतः दोनों ही कर्मकारों के इस प्रकार काम करने से उस कर्मकार को जिसने ऊपर 8 घन्टे का काम किया उसे फिर उस दिन के लिए क्या विश्राम मिला, यह तथ्य विचारणीय हो जाता है। अप्रार्थी

के आदेश/परिपत्र दि. 21-1-97 में जो इस प्रकार की असंगतता है उसको शायद अप्रार्थी वास्तविक धरातल की अनुभूति को समझते हुए इसी प्रकार भविष्य के लिए कदम उठायेगा या ऐसा उपाय सुनिश्चित करेगा कि किसी भी कर्मकार के साथ ऊपर वर्णित काम करने की स्थिति में भेदभाव की स्थिति नहीं रहे एवं इस हेतु कोई तर्कसंगत एवं न्यायप्रद निराकरण की कार्यवाही करेगा। कर्मकारों की इस वास्तविक व्यथा एवं पीड़ा के सम्बन्ध में यह न्यायाधिकरण अपनी इसी टिप्पणी के साथ अपने अभिमत को विराम देता है।

परिणामस्वरूप ऊपर किये गये समस्त विवेचन के आधार पर भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा अपने आदेश क्रमांक एल-42011/17/97-आईआर (डीयू) दि. 3-4-98 के जरिये सम्प्रेषित निर्देश (रेफ्रेन्स) को इसी अनुरूप उत्तरित किया जाता है कि प्रार्थीगण कर्मकार हस्तगत विवाद में अप्रार्थी संस्थान में 30 फीट से अधिक ऊँचाई पर काम करने के फलस्वरूप 20% अतिरिक्त वेतन की राशि या उसके बदले विश्राम प्राप्त करने के अधिकारी होने के तथ्य को साक्ष्य से साबित नहीं कर पाये हैं, अतः ऐसी परिस्थिति में वे कोई अनुतोष प्राप्त करने के अधिकारी नहीं हैं । परन्तु अप्रार्थी अपने संस्थान में कार्यरत श्रमिकों के इस प्रकार से ऊँचाई पर काम करने के सम्बन्ध में यदि कर्मकारों की कार्यविधि में अन्तर है तो इस प्रकार के कदम उठायेगा ताकि हर एक कर्मकार के साथ न्याय हो सके ।

प्रकाश चन्द्र पगारीया, न्यायाधीश

नई दिल्ली, 5 जुलाई, 2012

का.आ. 2526.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार के.ओ.एल. डैम हाइड्रो इलेक्ट्रिक पावर प्रोजेक्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ संख्या 150, 151, 152, 153, 154, 155, 156, 157, 159, 160, 161/2011 को प्रकाशित करती है जो केन्द्रीय सरकार को 5-07-2012 को प्राप्त हुआ था।

[सं. एल-42012/225, 233, 232, 234, 235, 230, 224,
223, 222, 231, 226/2010-आई आर (डी.यु.)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 5th July, 2012

S. O. 2526.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 150, 151, 152, 153, 154, 155, 156, 157, 159, 160, 161/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of KOL Dam Hydro Electric Power Project & Others and their workman, which was received by the Central Government on 5-07-2012.

[No. L-42012/225, 233, 232, 234, 235, 230, 224, 223, 222,
231, 226/2010-IR (DU)]

SURENDRA KUMAR, Section Officer

[illegible]

Present : Sri A.K. Rastogi, Presiding Officer

1. Case No. I.D. 150/2011
Registered, on 24.5.2011
Sh. Inder Kumar S/o Sh. Heera Singh, C/o
Sh. Rajesh Kumar Sharma, President District CITU,
District Committee Mandi, 221/10, Thanera
Mohalla (HP).
2. Case No. ID~ 151/2011
Registered on 24.5.2011
Sh. Daleep Rahal S/o Sh. Paramjeet Rahal, C/o
Sh. Rajesh Kumar Sharma, President District
CITU, District Committee Mandi, 221/10,
Thanera Mohalla (HP).
3. Case No. ID.152/2011
Registered on 24.5.2011,
Sh. Shyam Bahadur S/o Sh. Dhan Bahadur,
C/o Sh. Rajesh Kumar Sharma, President District
CITU, District Committee Mandi, 221/10, Thanera
Mohalla (HP).
4. Case No.153/2011
Registered on 24.5.2011.
Sh. Tam Bahadur S/o Sh. Ash Bahadur,
C/o Sh. Rajesh Kumar Sharma, President District
CITU, District Committee Mandi, 221/10, Thanera
Mahalla (HP).
5. Case No.154/2011
Registered on 24.5.2011
Sh. Dev Prakash S/o Sh. Thamum Dass,
C/o Sh. Rajesh Kumar Sharma,
President District CITU, District Committee Mandi,
221/10, Thanera Mohalla (HP). ,
6. Case No. ID.155/2011
Registered on 24/5/2011
Sh. Beeru Ram S/o Sh. Bali Ram, C/o Sh. Rajesh
Kumar Sharma, President District CITU, District
Committee Mandi, 221/10, Thanera Mohalla (HP).
7. Case No. ID.156/2011 ,
Registered on 24/5/2011 ,
Sh. Surya Prashad S/o Sh. Bhanu Prashad, C/o
Sh. Rajesh Kumar Sharma, President District
CITU, District Committee Mandi, 221/10, Thanera
Mahalia (HP).
8. Case No.ID. 157/2011
Registered on 24.5.2011
Sh. Suman Kumar S/o Sh. Kashi Ram,
C/o Sh.Rajesh Kumar Sharma,
President District CITU, District Committee
Mandi 221/10, Thanera Mohalla (HP).
9. Case No. ID. 159/2011
Registered on 24.5.2011
Sh. Kiran Barman S/o Sh. Jyotish Barman.

C/o Sh. Rajesh Kumar Sharma, President District CITU, District Committee Mandi, 221/10, Thanera Mahalla (HP).

10. Case No.ID.160/2011 ,

Registered 'on 24.5.2011

Shri Sher Bahadur Bist S/o Sh. Juman Bist,
C/o Sh. Rajesh Kumar

Sharma, President District CITU, District Committee Mandi 221/10,
Thanera Mohalia (HP).

11. Case No. ID.161/2011

Registered on 24.5.2011

Sh. Padam Bahadur,, S/o. Sh. Baig Bahadur,
C/o Sh. Rajesh Kumar Sharma, President District CITU, District Committee Mandi, 221/10, Thanera Mahalla (HP). . . Applicants

Versus

1. The General Manager, Kol Dam Hydro Electric Power Project, NTPC,
VPO Barmana, Bilaspur (HP) .
2. Project Manager, Italian Thai Development Co., Ltd., Kol Dam Hydra Electric Power Project, Village Kayan, PO Slapper, Teh. Sundernagar, Mandi (HP) .
3. M/s. UR Infrastructure Company Private Limited, Village Chamba, Post Office Harnora, Bilaspur.
4. The Managing Director, M/s. Right Tunneling Limited, Village Kayan, PO Slapper, Tehsil Sundernagar, Mandi (HP). . . Respondents

APPEARANCES

For the workman : None for workman
For the Management : Sh. VP Singh for
Respondent No. 1 & 4,
Sh. H. R. Sharma for
Respondent No. 2

AWARD

Passed on June, 2012

Central Government vide Order No. L-42012/225/2010/-IR(DU),
Order No. L. 42012/233/2010-IR(DU)), Order No. L-42012/232/2010/IR(DU),

Order No. L-42012/234/2010-IR(DU)), Order No. L-42012/235/2010/IR(DU),

Order No. L-42012/230/2010-IR(DU)), Order No. L-42012/224/2010-IR(DU),

Order No. L-42012/223/2010-IR(DU)), Order No. L-42012/222/2010-IR(DU),

Order No. L-42012/231/2010-IR(DU)) and Order No. L-42012/226/2010-IR(DU))

all dated 4-4-2011, by exercising its powers—under Section 10 sub-section (1) Clause (d) and sub-section 2(A) of the Industrial Disputes Act, 1947

(hereinafter referred to as Act) has referred the above Industrial disputes for adjudication to this Tribunal.

The common question of law and fact involved in all these matters is :—

“Whether the action of the management of M/s. Right Tunneling Ltd. sub contractor of M/s. UR Infrastructure Co. Pvt. Ltd. a sub contractor of M/s. Italian Thai Development Public Co. Ltd. in the KoL Dam Hydro-Electric Project of NTPC/ Barmana Bilaspur(HP) in terminating services of the aforesaid workmen without following the principle of (Last come First go) is legal and justified? What relief the workmen are entitled to?”

After receiving the references notices were issued to the parties. Claimants did not appear despite notice sent to them by registered post and notices not received back undelivered. Hence, service was presumed on them on 20-10-2011. Yet one more opportunity was given to the claimants to appear and file claim statement but still nobody turned up on their behalf nor was any claim statement filed. Respondent No.1, 2 and 4 have put in their appearances.

Since the workmen have failed to appear and file claim statement in the above titled IDs hence a (No Dispute award is passed in all the IDs referred above viz. ID No.150/2011, 151/2011, 152/2011, 153/2011, 154/2011, 155/2011, 156/2011, 157/2011, 159/2011, 160/2011 and 161 of 2011. A copy of the award be placed on the record of each of the IDs and two copies of the award be sent to Central Government for further necessary action.

ASHOK KUMAR RASTOGI , Presiding Officer

नई दिल्ली, 5 जुलाई, 2012

का.आ. 2527.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट

बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद के पंचाट (संदर्भ संख्या 96 /1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-7-2012 को प्राप्त हुआ था।

[सं. एल-12012/242/1991-आई.आर.(बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 5th July, 2012

S.O. 2527.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 96/1991) of the Central Government Industrial Tribunal-cum- Labour Court No. 1, Dhanbad as shown in the Annexure in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 5-7-2012.

[No. L-12012/242/1991-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/s. 10 (1) (d) (2A) of the Industrial Disputes. Act, 1947

Reference No. 96 of 1991

Parties:

Employers in relation to the management of State Bank of India

AND

Their workman

Present: Shri H.M. SINGH, Presiding Officer

APPEARANCES:

For the Employers : Shri S. N. Goswami, Advocate

For the Workman : None

State : Bihar

Industry : Bank

Dated, the 15-6-2012

AWARD

By Order No. L -12012/242/91-IR (B-I) dated 24-9-91/4-10-91 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of State Bank of India in terminating the services of Shri N. K. Lohia w.e.f. 21-8-89 on the ground of his refusal to appear in the special test for permanent absorption in the service of the Bank was justified ? If not, to what relief the workman is entitled to ?

2. The case of the concerned workman is that he was initially appointed as a temporary cashier in State Bank of India at Sahibganj Branch w.e.f. 3-6-64 and continuously worked upto 14-9-1967. His service was terminated from

15-9-1967 without any notice or compensation inspite of he had put in attendance for more than 240 days in a period of 12 months even if only the period from 15-9-66 to 14-9-67. A memorandum of Settlement was arrived at between the management and All India State Bank of India Staff Federation in respect of Temporary employees for their selection to permanent posts vide Circular No. 108 dated 29-3-1966 was issued for implementation of the joint decision. An award was passed on 5-10-83 by C.G.I. Tribunal No. 3, Dhanbad in Reference No. 68/1982 with direction for taking back the concerned workman in the employment of the Bank as fresh appointee within one month from passing of the award. Against that award the concerned made an appeal before the Hon'ble Supreme Court praying back wages. The Hon'ble Supreme Court granted relief to the extent of 50% of back wages from the date of termination till the date of reinstatement. The management made payment of 50% of back wages and the concerned workman was given fresh employment as Temporary Cashier. He was also directed by the management to appear in the written test and interview. Accordingly, the concerned workman appeared in the test in 1966 and as he had succeeded his service was not terminated and was allowed to work. However, he was not taken in permanent employment illegally. Thereafter his service was illegally terminated w.e.f. 15-9-67.

Under such circumstances it has been prayed that the Hon'ble Tribunal be pleased to pass an award by directing the management to reinstate the concerned workman in permanent cadre with full back wages and other benefits.

3. The case of the management is that he was initially appointed as a Temporary Cashier on purely temporary basis as stop gap arrangements for specific period, which was automatically came to end with effect from 3-6-1964 and thereafter continued to work as such till 14-6-67. A Memorandum of Settlement arrived between the management the All India State Bank of India Staff Federation in respect of Temporary employees for their selection to permanent posts vide Circular No. 108 dated 29-3-1966, was issued for implementation of the joint decision. It was decided that the then existing temporary employees in the clerical and cash department, would be given opportunity to appear in a written test and would be offered permanent absorption on the basis of marks obtained by the successful employees. The concerned workman appeared in the written test held on 29-10-1967 and interview held on 29-11-1967, but he failed in the examination. The concerned workman raised an industrial dispute against termination of his service w.e.f 15-9-67. The above dispute was referred to C.G.I.T. No.3, Dhanbad, which passed an award dated 5-10-83 holding that the action of the management in terminating the services of the concerned workman was illegal and unjustified as because conditions precedent as per provisions of

Sec. 25-F of the I.D. Act, 1947 were not complied with before terminating his service w.e.f. 15-9-67. The Hon'ble Tribunal gave direction for taking back the concerned workman in employment of the Bank as fresh employee within one month from passing of the award. The concerned workman filed an appeal before Hon'ble Supreme Court against the award praying for back wages and Hon'ble Supreme Court passed order and granted relief to the extent of 50% of back wages from the date of termination till the date of reinstatement. Accordingly, the concerned workman was given fresh employment as Temporary Cashier in pursuance of the award passed by CGIT No. 3 duly confirmed by the Hon'ble Supreme Court. After following the principles as laid down in the Circular No. 108 dated 29-3-1966 so far as permanent absorption of Temporary clerical staff was concerned, the management issued a letter dated 15-4-1989 to the concerned workman to appear in the Special Test to be held on 30-4-1989. But the concerned workman intentionally avoided and refused to appear in the Special Test. So, the management terminated the service of the concerned workman vide letter dated 21-8-1989 as there was no provisions to keep temporary employees in Cashier/Clerk's position, which are sensitive post and this is the cogent reason of termination.

Under such circumstances, it has been prayed that the action of the management in terminating the service of the concerned workman is legal and justified and the concerned workman is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. None appeared on behalf of the concerned workman to argue the case.

Argument advanced on behalf of the management is that the concerned workman was offered for appearing in for selection on permanent post, but he did not appear in the written test held on 29-10-67 and interview held on 29-11-67, but he failed in the examination. The management wanted to absorb him in permanent post, accordingly, the concerned workman was issued a letter dated 15-4-89 to appear in the Special Test to be held on 30-4-89, but he had not appeared even in the written test and interview, conducted for absorption of temporary/ex-employees who were engaged as temporary basis in the permanent cadre of the Bank as per agreement entered into the terms between the All India S.B.I. Staff Federation and the Bank.

In this respect WW-1 in his cross-examination at page 2 stated that the Hon'ble Supreme Court in its order had found my appointment to be a temporary post after decision of award matter to be justified. According to the rules an employee who does not pass the relevant test, gets terminated from service of the Bank. I have not filed any document in this reference case to show that I had

appeared in 1987 test for permanent absorption. That test was taken while I was in service for the first time. After my reinstatement I did not appear in any such test. It only shows that the management wanted to absorb temporary employees in permanent cadre after conducting special test, but the concerned workman intentionally refused to appear in the special test.

6. Considering the above facts and circumstances I hold that the action of the management of State Bank of India in terminating the services of Shri N. K. Lohia w.e.f. 21-8-89 on the ground of his refusal to appear in the special test for permanent absorption in the service of the Bank was justified. Hence, the concerned workman is not entitled to any relief.

H. M. SINGH, Presiding Officer

नई दिल्ली, 6 जुलाई, 2012

का.आ. 2528.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पश्चिम मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 101/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-7-2012 को प्राप्त हुआ था।

[सं. एल-41012/74/2004-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 6th July, 2012

S.O. 2528.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 101/04) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Western Central Railway, and their workman, received by the Central Government on 6-7-2012.

[No. L-41012/74/2004-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/ 101/04

PRESIDING OFFICER: SHRI MOHD. SHAKIR HASAN

Shri Ambika Prasad Tiwari,
Through National Forum of Rly. Congressmen,
Cabinman, Rly Station,
Sihora Road,
Jabalpur

...Workman

Versus

The Divisional Railway Manager,
Western Central Railway,
Jabalpur (MP)

...Management

AWARD

Passed on this 15th day of June 2012

1. The Government of India, Ministry of Labour vide its Notification No.L-41012/74/2004-IR(B-I) dated 27-9-2004 has referred the following dispute for adjudication by this tribunal :-

“क्या प्रबंधन मण्डल रेल प्रबंधक पश्चिम मध्य रेलवे, जबलपुर म. प्र. के प्रबंधन द्वारा श्री अम्बिका प्रसाद तिवारी, केबिनमेन, रेलवे स्टेशन सिहोरा रोड को वरीयता के आधार पर 29-4-74 की बजाए 29-7-72 से प्वाइंट्समेन-बी के पद पर पदोन्नति के लाभ प्रदान न किये जाने की कार्यवाही न्यायोचित है ? यदि नहीं तो संबंधित कर्मकार किसी अनुतोष का हकदार नहीं है ।”

2. The case of the workman, in short, is that he was appointed as Station Porter on 10-10-1963 alongwith Rameshwar Jai Ram and Sitaram Kashiram. These two workers were promoted as Pointsman “B” grade on 29-7-72 ignoring the promotion of the workman Shri Ambika Prasad Tiwari though they were juniors to him. He represented before the management and thereafter he was promoted on the said post of Pointsman Gr. B w.e.f. 29-4-74. As a result they are getting two more increments. The workman gave several representations but the same are undecided. It is submitted that the management be directed to give promotional benefits of Pointsman Gr. “B” w.e.f. 29-7-72 equal to the Juniors Rameshwar Jairam and Sitaram Kashiram with arrears and other benefits.

3. The management appeared and filed statement of claim (Written Statement) to contest the reference. The case of the management, inter alia, is that the seniority list was issued by the Railway Administration on 30-7-1965 and in the seniority list, the name of Shri Rameshwar Jairam stands at Serial No. 432 whereas the name of the workman Ambika Prasad Tiwari stands at Serial No. 457. Shri Rameshwar Jairam was senior to the workman as such Shri Jairam was promoted earlier. The Annexure A/1 filed by the workman is not a seniority list rather it is only a posting order. It is stated that the representations of the workman was considered by the Railway Administration and was rejected and was communicated to the workman. It is stated that the claim is at a belated stage and by now the workman and co-workers have already been retired. It is also stated that the dispute is relating to promotion and seniority and the same is not raised by the Union and therefore it is not to be termed as an industrial dispute within the meaning of Industrial Dispute Act, 1947 in short the Act, 1947). It is submitted that the workman is not entitled to any relief.

4. On the basis of the pleadings of the parties, the following issues are for adjudications :—

I. Whether the action of the management in not promoting the workman on the post of Pointsman Gr. “B” on 29-7-92 instead of 29-4-74 on the basis of seniority is justified?

II. Whether the dispute relating to promotion and seniority is raised by the workman himself and the same is not to be termed as an industrial dispute?

III. To what relief the workman is entitled?

5. Issue No. I

To prove the case, the workman Shri Ambika Prasad Tiwari is examined himself. He has supported his case. He has stated that he was appointed as a Station Porter on 10-10-1963 and he was senior to Shri Sita Ram S/o Kashiram and Rameshwar S/o Jairam in the seniority list. He has further stated that they had been promoted on 27-9-1972 on the post of Pointsman Grade B superseding him. His pay and pension were affected. He has been cross-examined but there is nothing in his evidence to disbelieve this witness. His evidence shows that he was senior to the other two named workers and they had been promoted two years before this workman.

6. The workman has also adduced documentary evidence as well which is admitted by the management. Exhibit W/1 is the failure report of the Asstt. Labour Commissioner (Central) [in short ALC(C)] Jabalpur. This letter goes to show that the dispute of the workman was raised by the National Forum of Railway Congressman, (Central Railway), Jabalpur where the management did not participate inspite of repeated adjournment in the conciliation proceeding. As such the ALC(C) submitted failure report to the Ministry. The pleading of the management shows that Annexure A/1 filed by the workman is relied by the management. Annexure A/1 is the office order dated 8-11-1963 of the management. The said annexure is a posting order and not a seniority list. This office order cannot be the basis of seniority of the workers. The other photocopies of the documents filed by the workman are denied by the management and these documents are not proved by the workman and therefore are not reliable to consider in evidence. Thus the documentary evidence shows that the workman raised the dispute before the ALC(C) Jabalpur but the management did not participate to contradict the claim of the workman. However these documents as have been referred above do not prove that the workman was senior to Shri Ramsharan and Sitaram.

7. On the other hand according to the management, the seniority list was issued by the Railway Administration on 30-7-1965 and in the seniority list, the name of Shri Rameshwar Jairam stands at Serial No. 432 whereas the

name of Shri Ambika Prasad Tiwari stands at Serial No. 457. There is no case of the management as to whether the name of Shri Sitaram Kashiram stands in the serial list and whether he was senior or junior to Shri Ambika Prasad Tiwari or not. There is no specific denial of the management with regard to Shri Sitaram S/o Kashiram. There is only specific case of the management that Shri Rameshwar is senior to the workman Shri Ambika Prasad and therefore Shri Rameshwar was promoted earlier. Since there is no specific case and specific denial that Shri Sitaram S/o Kashiram is also senior to the workman Shri Ambika Prasad, it is deemed to be admitted that he was junior to Shri Ambika Prasad. The management witness Shri Gyananand Shukla is working as OS-II in DRM office, Jabalpur. He has stated that the seniority list was Published on 30-7-1965. He has further stated that Rameshwar and Ramsingh are senior to the workman Shri Ambika Prasad Tiwari. There is no evidence as to whether Sitaram S/o Kashiram was also senior to Ambika Prasad or not who was also promoted on 29-7-72. There is no evidence with respect to Shri Sitaram S/o Kashiram. Thus the oral evidence of the management is not sufficient to prove that the workman was not entitled to be promoted with effect from 29-7-72.

8. The management has filed the seniority list dated 30-7-65 which is paper nos 9/2 to 9/4. The seniority list shows that the name of Rameshwar Tiwari S/o Jairam Tiwari stands at Serial No. 432. The name of the workman Shri Ambika Prasad S/o Dillipat Tiwari stands at Serial No. 457 and the name of Shri Sitaram S/o Kashiram stands at Serial No. 463. This seniority list itself shows that Shri Sitaram S/o Kashiram was junior to Shri Ambika Prasad. There is no case of the management as to why Shri Sitaram S/o Kashiram was promoted on 29-7-72 superseding the workman Shri Ambika Prasad Tiwari. This shows that the workman is justified in claiming his promotion w.e.f. 29-7-72 instead of 29-4-74. This issue is decided in favour of the workman and against the management.

9. Issue No. II

The learned counsel for the management has raised objection that this is a dispute relating to promotion and seniority and the dispute is not sponsored by the Union and therefore the dispute raised by the workman is not an industrial dispute within the meaning of the Act, 1947. There is no dispute that West Central Railway is not an industry. The industrial dispute is defined in Section 2(k) of the Act, 1947 which is produced as under:-

“ Industrial dispute” means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.’

Thus it is clear that it is an industrial dispute because it is a dispute between the employer and the workman of the West Central Railway.

10. Another question is as to whether the dispute is sponsored by the Union and as to whether the said question is raised and proved by the management. The workman has filed the report of the ALC(C), Jabalpur which is marked as Exhibit W/1. This report of the ALC(C), Jabalpur was sent to the Ministry on failure of conciliation proceeding for reference. The said report shows that the dispute of the workman was sponsored by the National Forum of Railway Congressman(Central Railway) Jabalpur Division. Thus it is clear that the dispute of the workman is raised by the Union who is also party to the reference. The management has not challenged in the evidence that the dispute is not raised by the Union rather there is no evidence adduced by the management. I, therefore, find that the dispute is rightly raised before the Tribunal and the same was sponsored by the National Forum of Railway Congress. This issue is also decided in favour of the workman and against the management.

11. Issue No. III -

It is clear from the case of the parties that the workman Shri Ambika Prasad Tiwari has now retired from service. As such on the basis of the discussion made above, the workman Shri Ambika Prasad Tiwari is entitled to be promoted on the post of Pointsman Gr. “B” w.e.f. 29-7-72 and therefore the management is directed to pass the order of promotion of the workman Shri Ambika Prasad Tiwari w.e.f. 29-7-72 which is the date of promotion of Shri Sitaram S/o Kashiram, Pointsman Gr.B and to pay the difference of the amount till the date of superannuation and to pay pension and other retirement benefits accordingly within two months from the date of award. Accordingly the reference is answered.

12. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 6 जुलाई, 2012

का.आ. 2529.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सतपुरा क्षेत्रीय ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 45/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-7-2012 को प्राप्त हुआ था ।

[सं. एल-12012/295/2003-आई आर (बी-I)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 6th July, 2012

S.O. 2529.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 45/04) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Satpura Kshetriya Gramin Bank, and their workman, received by the Central Government on 6-7-2012.

[No. L-12012/295/2003-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/45/04

Presiding Officer: SHRI MOHD. SHAKIR HASAN

The General Secretary,
MPKGB Karamchari Union,
Motinagar, Ward No.24,
Balaghat

...Workman

Versus

The chairman,
Satpura Kshetriya Gramin Bank,
Behind Bus Stand,
Mandla (MP)

...Management

AWARD

Passed on this 19th day of June, 2012

I. The Government of India, Ministry of Labour vide its Notification No.L-12012/295/2003-IR(B-I) dated 8-4-2004 has referred the following dispute for adjudication by this tribunal:-

“Whether the action of the management of the Chairman, Satpura Kshetriya Gramin Bank, Mandla in not regularizing Shri Lakhan Lal Jharia is legal and justified? If not to what relief the workman is entitled for?”

2. The case of the Union/workman in short is that the workman Shri Lakhan Lal Jharia was working from the year 1984 to 24-11-2003 in the Bakori Branch of the management Bank as daily wager on the post of messenger-cum-safai karmchari. The workman is said to have represented for regularizing his service. The Union had also raised demand with the management for regularizing the services of the daily wagers who were working in different branches of the Bank. The workman had authorized the recognised Union to represent his case and the Union had raised dispute before the Assistant

Labour Commissioner (Central), Shahdol. The conciliation proceeding ended in failure. Thereafter the management terminated him from service w.e.f. 25-11-2003 without payment of retrenchment compensation. It is stated that the management had again orally engaged other person in his place. It is submitted that the workman be appointed on the permanent post with admissible pay and allowance.

3. The management appeared and filed Written Statement to contest the reference. The case of the management, inter alia, is that the Branch Manager can only hire the services of any body purely on daily wages and the said engagement automatically comes to an end. The workman was engaged on daily wages on the basis of need of work which came to an end on completion of the said work. He was paid remuneration for the work he performed time to time. He therefore cannot claim regularization on the basis of casual engagement. It is stated that the provisions of Industrial Dispute Act, 1947 (in short the Act, 1947) are not attracted in the present case. It is submitted that the workman is not entitled to any relief.

4. On the basis of the pleadings of the parties, the following issues are framed for adjudication-

I. Whether the action of the management in not regularizing the workman is legal and justified?

II. To what relief the workman is entitled?

5. Issue No. I

According to the workman, he was engaged as a daily wager from the year 1984 to 24-11-2003. Admittedly now the workman is not in employment of the management Bank. The important question is that under the circumstances as to whether the workman is entitled to be regularized in the services of the management Bank or not. The workman Shri Lakhan Lal Jharia is only examined in the case. He has stated that he worked regularly from the date of appointment till 25-11-2003 for 18 years when he was orally terminated. Admittedly he is not in the employment of the management presently. As such the question to regularize him in the service does not arise when he is not in service. He has stated that he was engaged on casual basis orally without referring his name by the Employment Exchange. He had not given any test in writing. This shows that he was not appointed after due process of recruitment rules. This shows that he is not entitled for regularization in the service on the basis of casual employment, even if he remained in service.

6. On the other hand, the management has also examined one witness namely Shri Satish Kumar Singhore. He is working as Senior Manager. He has supported the case of the management. He has stated that whenever the workman worked, he was paid through voucher. His evidence also shows that the workman was engaged

intermittently for casual work. He was never appointed by due process of recruitment rules. This shows that the workman is not entitled to be regularized in the service of the Bank. This issue is decided against the workman and in favour of the management.

7. Issue No. II

On the basis of the discussion made above, I find that the workman is not entitled to any relief. Accordingly the reference is answered.

8. In the result, the award is passed without any order to costs.

MOHD.SHAKIR HASAN, Presiding Officer

नई दिल्ली, 6 जुलाई, 2012

का.आ. 2530.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इन्दौर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 43/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को -7-2012 को प्राप्त हुआ था।

[सं. एल-12011/37/2010-आई आर (बी-1)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 6th July, 2012

S.O. 2530.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of State Bank of Indore, and their workman, received by the Central Government on 6-7-2012.

[No.L-12011/37/2010-IR (B-I)]
RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/43/2011

Presiding Officer: SHRI MOHD. SHAKIR HASAN
General Secretary,
Dainik Vetan Bhogi Karmchari Sangathan,
F-1, Tripti Vihar,
Opp.Engg. College,
Ujjain.

...Workman

Versus

The Managing Director,
State Bank of Indore, Head Office,
5, Y. N. Road,
Indore

...Management

AWARD

Passed on this 18th day of June, 2012

1. The Government of India, Ministry of Labour vide its Notification No.L-12011/37/2010-IR(B-I) dated 24-5-2011 has referred the following dispute for adjudication by this tribunal:-

“Whether the demand of the Union, Dainik Vetan Bhogi Karmchari Sangathan, Ujjain for payment of difference of wages from 20-12-95 to 10-1-2009 as per bipartite settlement to Shri Satish Kumar Kushwaha who was working in State Bank of Indore, Nateran Br. (Vidisha) is legal and justified? To what relief the union/workman is entitled?”

2. The case of the Union/workman in short, is that the workman Shri Satish Kumar Kushwaha was working as peon at Nateran Branch (Vidisha) of State Bank of India from 20-12-1995 to 10-1-2009. He worked eight hours every day and 240 days in every year. After completion of 240 days in a year, he demanded wages of permanent employee and also bonus of his cadre. It is stated that he was entitled to get the wages in accordance with Shastri Award and bipartite settlements time to time. It is submitted that the management be directed to pay the difference of wages to the workman.

3. The notice was issued to the management but he did not appear in the case.

4. The workman Shri Satish Kumar Kushwaha in the mean time filed an application dated 20-1-12 stating therein that he is withdrawing the authority of Shri Ram Nagwanshi, General Secretary to contest the reference on his behalf. He has further stated that the management has taken him in employment at Nateran Branch w.e.f. 14-10-2011 and therefore he wants to withdraw the case. This clearly shows that now there is no dispute in existence between the management and the workman and the workman doesnot want to raise dispute against the management. Accordingly the reference is answered.

5. In the result, the no dispute award is passed without any order to costs.

6. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 9 जुलाई, 2012

का.आ. 2531.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 25/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-7-2012 को प्राप्त हुआ था।

[सं. एल-12012/15/2008-आई आर (बी-1)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 9th July, 2012

S.O. 2531.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India, and their workmen, received by the Central Government on 9-7-2012.

[No. L-12012/15/2008-IR (B-1)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present :

Shri J. Srivastava,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar

Industrial Dispute Case No. 25/2008

Date of Passing .Award - 28th June, 2012

Between:

The Branch Manager,
State Bank of India, Bhubaneswar
Old Town Branch, Bhubaneswar,
Dist. Khurda,
(Orissa)

... 1st Party-Management

(And)

Their workman

Sri Laxman Behera,
Qr. No. VR-5/1, Kharvela Nagar,
Unit-3, Bhubaneswar.
(Orissa)

... 2nd Party-Workman

Appearances :

Shri Alok Das, ... For the 1st Party-
Authorized Representative Management

None ... For the 2nd Party-
Workman

AWARD

The Government of India in the Ministry of Labour has referred the present dispute existing between the employers in relation to the management of State Bank of India and their workman under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide their Letter No. L-12012/15/2008-IR (B-1), dated 12-5-2008 to this Tribunal for adjudication to the following effect :

“Whether the action of the management of State Bank of India, Old Town Branch, Bhubaneswar in terminating the services of Sri Laxman Behera, ex-workman w.e.f. 30-09-2004 without complying the provisions of the I.D. Act, is legal and justified? To what relief is he entitled?”

2. The 2nd Party-Workman has filed his statement of claim alleging that he had joined his services as a Messenger on 31-12-1979 after succeeding in interview. He was assured to get permanent appointment order after one year or on completion of 240 days' work in a calendar year, but despite completion of several years of continuous satisfactory service and putting in more than 240 days' work in each year he was not regularized, instead terminated and refused employment from 30-9-2004 by the 1st Party-Management without any written communication or payment of compensation. The 1st Party-Management in refusing employment to him violated all principles of natural justice and mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. He therefore brought the matter into the notice of the C.G.M. and C.D.O. of the State Bank of India, L.H.O., Bhubaneswar. But on hearing nothing, he raised an industrial dispute before the Regional Labour Commissioner (Central) vide his letter dated 21-2-2005. Conciliation proceedings were started, but they failed and thereupon a failure report was submitted to the Government and the Government made the present reference. He is thus entitled to get full back wages and reinstatement with continuity of service with effect from 30-9-2004.

3. The 1st Party-Management in its reply through written statement has stated that the present dispute is misleading and misconceived in as much as the 2nd Party-workman had already raised a similar dispute along with 124 other workers through the State Bank of India Temporary 4th Grade Employees Union before the Assistant Labour Commissioner (Central), Bhubaneswar challenging their alleged termination of service by the

1st Party-Management. In the said dispute the failure report was sent by the Asstt. Labour Commissioner (Central), Bhubaneswar to the Ministry of Labour who in turn referred the matter to this Tribunal for adjudication and the same is pending before this Tribunal being I.D. Case No. 7/2007. The name of the 2nd Party-workman is appearing at Sl. No. 22 in Annexure-A to the said reference. Thus, raising a common dispute for same cause of action and again raising individual dispute for same relief is nothing but an abuse of the process of law and amounts to multiplicity of litigation. The Asstt. Labour Commissioner (Central) while conciliating the individual disputes disregarded the direction of the Deputy Chief Labour Commissioner (Central) not to take any further action on the separate disputes raised by the same workers for the same cause of action. The allegation of the 2nd Party-workman that he had joined the Bank on 31-12-1979 and he was discontinued from service on 30-9-2004 is not correct. He was engaged intermittently on temporary/daily wage basis due to exigencies of work. It is further denied that he was performing his duties with all sincerity and honesty and to the best of satisfaction of the Authority. The 2nd Party-workman has never completed several years of continuous service in the Bank nor he has completed 240 days of continuous service in any calendar year preceding the date of his alleged termination. In order to give an opportunity for permanent absorption to the ex-temporary employees/daily wagers in the Bank in view of the various settlements entered into between the All India State Bank of India Staff Federation and the Management of the State Bank of India all eligible persons were called for interview. The 2nd Party-workman was also called for an interview along with other eligible persons in the year 1993. As he was not found successful in the said interview he could not be appointed in the Bank. The Union or the 2nd Party-workman has never challenged the implementation of the settlement which has now gained finality. It is further submitted that some of the wait-listed candidates, who could not be absorbed in the Bank's service due to expiry: of the panel on 31st March, 1997 filed Writ Petitions before the Hon'ble High Court of Orissa. But the Hon'ble High Court of Orissa by a common order dated 15-5-1998 passed in O.J.C. No. 2787/1997 dismissed a batch of Writ Petitions and upheld the action the Management of the Bank. This order of the Hon'ble High Court was also upheld by the Hon'ble Supreme Court of India in S,LP. No. CC - 3082/1999. Hence the above matter has attained finality and cannot be re-agitated. Since the services of Sri Behera had allegedly been terminated on 22-9-1980 his claim has become stale by raising the dispute after lapse of a period of 24 years. It is a settled principle of law that delay destroys the right to remedy. Thus raising the present dispute after 24 years of alleged termination is liable to be rejected.

4. On the pleadings of the parties following issues were framed:—

ISSUES

1. Whether the present reference of the individual workman during the pendency of the I.D. Case No.7/2007 before this Tribunal on the same issue is legal and justified?
2. Whether the workman has worked for more than 240 days as enumerated under section 25-F of the Industrial Disputes Act?
3. Whether the action of the Management of State Bank of India Old Town Branch, Bhubaneswar in terminating the services of Shri Laxman Behera, Ex-workman with effect from 30-9-2004 without complying the provisions of the I.D. Act, 1947 is legal and justified?
4. To what relief is the workman concerned entitled?
5. The 2nd Party-workman despite giving sufficient opportunity did not produce any evidence either oral or documentary in support of his claim and willingly kept himself out of the proceedings at the stage of evidence by absenting himself or his Union representative.
6. The 1st Party-Management has adduced the oral evidence of Shri Manmath Kumar Biswas as M.W.-1 and filed documents marked as Ext.- A to Ext-J in refutation of the claim of the 2nd Party-workman.

FINDINGS

ISSUE NO. 1

7. A specific plea has been raised by the 1st Party-Management that a group of 125 employees including the 2nd Party-workman had already raised a similar dispute in I.D. Case No. 7/2007 before this Tribunal for the same relief which is pending for adjudication. The dispute as referred to in I.D. Case No. 7/2007 is given below for comparison with the dispute in the present case—

Whether the action of the Management of State Bank of India, Orissa Circle, Bhubaneswar in not considering the case of 125, workmen whose details are in Annexure-A for re-employment as per Section 25 (H) of Industrial Disputes Act, 1947 is legal and justified? If not, what relief the workmen are entitled to?

8. The name of the 2nd party-workman appears at Sl. No. 22 in Annexure-A to the above reference. In both the cases the matter of disengagement or so called retrenchment is involved to be considered in one or the other way and the relief claimed is with regard to re-employment. But challenge has been made more specifically against the termination of service of the 2nd Party-workman in the present case while in I.D. Case No. 7/2007 prayer has been made with regard to consideration of the case of 125 workmen for re-employment as per Section 25-H of the Industrial Disputes Act, 1947. In fact, in the latter case the workmen have

submitted or virtually surrendered to their cessation of employment or alleged termination, whereas in the present case they have challenged their termination on facts and law. Virtually in the present case validity and legality of the alleged termination has to be tested at the alter of facts and legal propositions. Therefore, it cannot be said that issues involved in both the cases are same. This case can proceed despite pendency of I.D. Case No. 7/2007 and the present reference by the individual workman pending for adjudication is maintainable being legal and justified. This issue is therefore decided in the affirmative and against the 1st Party-Management.

ISSUE NO. 2

9. The onus to prove that the 2nd Party-workman has completed one year or 240 days of continuous service during a period of 12 calendar months preceding the date of his alleged termination or disengagement from service lies on him, but the 2nd Party-workman has not adduced any evidence either oral or documentary in support of his contention. He has only alleged in his statement of claim that he had joined the service on 31-12-1979 and worked till 30-9-2004 on temporary/casual/daily wage basis, but he has not filed any certificate or reliable document showing the break-up of year-wise service rendered by him under the 1st Party-Management during the above period. The 1st Party-Management, on the other hand, has alleged that the 2nd Party-workman was engaged intermittently on temporary/daily wage basis due to exigencies of work and he had never completed 240 days continuous service in a calendar year. M.W-I Shri Manmath Kumar Biswas in his statement before the Court has stated that “the disputant was working intermittently for few days in our Branch on daily wage basis in exigencies..... He had not completed 240 days of continuous and uninterrupted service preceding the alleged date of the termination”. He has denied the allegation that the workman was discontinued with effect from 30-9-2004, but stated that “Infact the workman left working in the Branch since 22-9-1980.” The 2nd Party-workman has to disprove the evidence led by the 1st Party-Management, but he has not come before the Court to give evidence. A temporary or daily wage worker has no right to claim reinstatement and particularly when such an employee had not worked for 240 days continuously during a period of 12 calendar months preceding the date of his so-called termination. Thus he is not entitled to get benefit of Section 25-F of the Industrial Disputes Act, 1947. This issue is hereby decided against the 2nd Party-workman for failing to prove that he had worked for 240 days continuously during a period of 12 calendar months preceding the date of his disengagement or alleged termination from service.

ISSUE NO. 3

10. Since the 2nd Party-workman could not prove that he had rendered 240 days continuous service

under the 1st Party-Management during a period of 12 calendar months preceding the date of his disengagement or alleged termination, he is not entitled for re-employment even in case of his alleged illegal and arbitrary termination. Moreover, he was a temporary/casual/daily wage employee. His services can be terminated at any time without assigning any cause by the 1st Party-Management. He has no legal right to be retained in service for the extended period, if he was appointed for a certain period or when no time is specified. The 2nd Party-workman has not filed any letter of appointment or proof of having rendered service under the 1st Party-Management for a specified period against a regular post. The 1st Party-Management has further alleged that in time of exigencies only the 2nd Party-workman was employed. It means that with the end of exigencies his job also came to an end. In view of the matter the action of the management of State Bank of India, Old Town Branch, Bhubaneswar in terminating the services of Sri Laxman Behera with effect from the alleged date of his termination is fair, legal and justified. This issue is accordingly decided in the affirmative and against the 2nd Party-workman.

ISSUE NO. 4

11. In view of the findings recorded above under Issues No. 2 and 3, the 2nd Party-workman is not entitled to any relief whatsoever claimed.

12. Reference is answered accordingly.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 जुलाई, 2012

का.आ. 2532.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 41/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-7-2012 को प्राप्त हुआ था।

[सं. एल-12012/30/2008-आईआर(बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 9th July, 2012

S.O. 2532—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 41/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the management of State Bank of India, and their workman, received by the Central Government on 9-7-2012.

[No. L-12012/30/2008-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR

Present:

Shri J. Srivastava,
 Presiding Officer, C.G.I.T.-cum-Labour
 Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 41/2008

Date of Passing Award - 26th June, 2012

Between:

The Assistant General Manager,
 State Bank of India, Bhubaneswar Main Branch,
 Bhubaneswar, Dist. Khurda, Orissa, Bhubaneswar.

... 1st Party-Management

(And)

Their workman Sri Satyananda Barik,
 Qr. No. VR-5/1, Kharvela Nagar, Unit-3,
 Bhubaneswar. (ORISSA)

... 2nd Party-Workmen

Appearances:

Shri Alok Das, ... For the 1st Party-
 Authorized Representative Management

None For the 2nd Party-
 Workman.

AWARD

The Government of India in the Ministry of Labour has referred the present dispute existing between the employers in relation to the Management of State Bank of India and their workman under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide their Letter No. L-12012/30/2008 - IR (B-1), dated 2-6-2008 to this Tribunal for adjudication to the following effect:

“Whether the action of the management of State Bank of India in relation to their Main Branch, Bhubaneswar in terminating the services of Sri Satyananda Barik w.e.f. 30-9-2004 is fair, legal and justified? To what relief is the workman concerned entitled? ”

2. The 2nd Party-Workman has filed his statement of claim alleging that he had joined his services as a Messenger on 12-1-1987 after succeeding in interview. He was assured to get permanent appointment order after one year or on completion of 240 days' work in a calendar year, but despite completion of several years of continuous satisfactory service and putting in more than 240 days' work in each year he was not regularized, instead terminated and refused employment from 30-9-2004 by the 1st Party-Management without any written communication or

payment of compensation. The 1st Party-Management in refusing employment to him violated all principles of natural justice and mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. He therefore brought the matter into the notice of the C.G.M. and C.D.O. of the State Bank of India, L.H.O., Bhubaneswar. But on hearing nothing, he raised an industrial dispute before the Regional Labour Commissioner (Central) vide his letter dated 2-3-2005. Conciliation proceedings were started, but they failed and thereupon a failure report was submitted to the Government and the Government made the present reference. He is thus entitled to get full back wages and reinstatement with continuity of service with effect from 30-9-2004.

3. The 1st Party-Management in its reply through written statement has stated that the present dispute is misleading and misconceived in as much as the 2nd Party-workman had already raised a similar dispute along with 124 other workers through the State Bank of India Temporary 4th Grade Employees Union before the Assistant Labour Commissioner (Central), Bhubaneswar challenging their alleged termination of service by the 1st Party-Management. In the said dispute the failure report was sent by the Asst. Labour Commissioner (Central), Bhubaneswar to the Ministry of Labour who in turn referred the matter to this Tribunal for adjudication and the same is pending before this Tribunal being I.D. Case No. 7/2007. The name of the 2nd Party-workman is appearing at Sl. No. 9 in Annexure-A to the said reference. Thus, raising a common dispute for same cause of action and again raising individual dispute for same relief is nothing but an abuse of the process of law and amounts to multiplicity of litigation. The Asst. Labour Commissioner (Central) while conciliating the individual disputes disregarded the direction of the Deputy Chief Labour Commissioner (Central) not to take any further action on the separate disputes raised by the same workers for the same cause of action. The allegation of the 2nd Party-workman that he had joined the Bank on 12-1-1987 and he was discontinued from service on 30-9-2004 is not correct. He was engaged intermittently on temporary/daily wage basis due to exigencies of work. It is further denied that he was performing his duties with all sincerity and honesty and to the best of satisfaction of the Authority. The 2nd Party-workman has never completed several years of continuous service in the Bank nor he has completed 240 days of continuous service in any calendar year preceding the date of his alleged termination. In order to give an opportunity for permanent absorption to the ex-temporary employees/daily wagers in the Bank in view of the various settlements entered into between the All India State Bank of India Staff Federation and the Management of the State Bank of India all eligible persons were called for interview. The 2nd Party-workman was also called for an interview along with other eligible persons in the year 1993. As he

was not found successful in the said interview he could not be appointed in the Bank. The Union or the 2nd Party-workman has never challenged the implementation of the settlement which has now gained finality. It is further submitted that some of the wait-listed candidates, who could not be absorbed in the Bank's service due to expiry of the panel on 31st March, 1997 filed Writ Petitions before the Hon'ble High Court of Orissa. But the Hon'ble High Court of Orissa by a common order dated 15-5-1998 passed in O.J.C. No. 2787/1997 dismissed a batch of Writ Petitions and upheld the action of the Management of the Bank. This order of the Hon'ble High Court was also upheld by the Hon'ble Supreme Court of India in S.L.P. No. CC - 3082/1999. Hence the above matter has attained finality and cannot be re-agitated. Since the services of Sri Barik had allegedly been terminated on 18-12-1996 his claim has become stale by raising the dispute after lapse of a period of 9 years. It is a settled principle of law that delay destroys the right to remedy. Thus raising the present dispute after 9 years of alleged termination is liable to be rejected.

4. On the pleadings of the parties following issues were framed :—

ISSUES

1. Whether the present reference of the individual workman during the pendency of the ID. Case No. 7/2007 before the Tribunal on the same issue is legal and justified?

2. Whether the workman has worked for more than 240 days as enumerated under section 25-F of the Industrial Disputes Act?

3. Whether the action of the Management of State Bank of India in relation to their Main Branch, Bhubaneswar, in terminating the services of Shri Satyananda Barik, with effect from 30-9-2004, is fair, legal and justified?

4. To what relief is the workman concerned entitled?

5. The 2nd Party-workman despite giving sufficient opportunity did not produce any evidence either oral or documentary in support of his claim and willingly kept himself out of the proceedings at the stage of evidence by absenting himself or his Union representative.

6. The 1st Party-Management has adduced the oral evidence of Shri Abhay Kumar Das as M.W.-1 and filed documents marked as Ext.-A to Ext.-J in refutation of the claim of the 2nd Party-workman.

FINDINGS

ISSUE NO. 1

7. A specific plea has been raised by the 1st Party-Management that a group of 125 employees including the 2nd Party-workman had already raised a similar dispute in I.D. Case No. 7/2007 before this Tribunal for the same

relief which is pending for adjudication. The dispute as referred to in I.D. Case No. 7/2007 is given below for comparison with the dispute in the present case —

Whether the action of the Management of State Bank of India, Orissa Circle, Bhubaneswar in not considering the case of 125 workmen whose details are in Annexure-A for re-employment as per Section 25(H) of Industrial Disputes Act, 1947 is legal and justified? If not, what relief the workmen are entitled to?

8. The name of the 2nd party-workman appears at S1. No.9 in Annexure- A to the above reference. In both the cases the matter of disengagement or so called retrenchment is involved to be considered in one or the other way and the relief claimed is with regard to re-employment. But challenge has been made more specifically against the termination of service of the 2nd Party-workman in the present case while in I.D. Case No. 7/2007 prayer has been made with regard to consideration of the case of 125 workmen for re-employment as per Section 25-H of the Industrial Disputes Act, 1947. In fact in the latter case the workmen have submitted or virtually surrendered to their cessation of employment or alleged termination, whereas in the present case they have challenged their termination on facts and law. Virtually in the present case validity and legality of the alleged termination has to be tested at the alter of facts and legal propositions. Therefore it cannot be said that issues involved in both the cases are same. This case can proceed despite pendency of I.D. Case No. 7/2007 and the present reference by the individual workman pending for adjudication is maintainable being legal and justified. This issue is therefore decided in the affirmative and against the 1st Party-Management,

ISSUE NO. 2

9. The onus to prove that the 2nd Party-workman has completed one year or 240 days of continuous service during a period of 12 calendar months preceding the date of his alleged termination or disengagement from service lies on him, but the 2nd Party-workman has not adduced any evidence either oral or documentary in support of his contention. He has only alleged in his statement of claim that he had joined the service on 12-1-1987 and worked till 30-9-2004 on temporary/casual/daily wage basis, but he has not filed any certificate or reliable document showing the break-up of year-wise service rendered by him under the 1st Party-Management during the above period. The 1st Party-Management, on the other hand, has alleged that the 2nd Party-workman was engaged intermittently on temporary/daily wage basis due to exigencies of work and he had never completed 240 days continuous service in a calendar year. M.W.-1 Shri Abhay Kumar Das in his statement before the Court has stated that "the disputant was working intermittently for few days in our Branch on

daily wage basis in exigencies He had not completed 240 days of continuous and uninterrupted service preceding the alleged date of the termination". He has denied the allegation that the workman was discontinued with effect from 30-9-2004, but stated that "Infact the workman left working in the Branch since 18-12-1996." The 2nd Party-workman has to disprove the evidence led by the 1st Party- Management, but he has not come before the Court to give evidence. A temporary or daily wage worker has no right to claim reinstatement and particularly when such an employee had not worked for 240 days continuously during a period of 12 calendar months preceding the date of his so-called termination. Thus he is not entitled to get benefit of Section 25-F of the Industrial Disputes Act, 1947. This issue is hereby decided against the 2nd Party-workman for failing to prove that he had worked for 240 days continuously during a period of 12 calendar months preceding the date of his disengagement or alleged termination from service.

ISSUE NO. 3

10. Since the 2nd Party-workman could not prove that he had rendered 240 days continuous service under the 1st Party-Management during a period of 12 calendar months preceding the date of his disengagement or alleged termination, he is not entitled for re-employment even in case of his alleged illegal and arbitrary termination. Moreover, he was a temporary/casual/daily wage employee. His services can be terminated at any time without assigning any cause by the 1st Party Management. He has no legal right to be retained in service for the extended period, if he was appointed for a certain period or when no time is specified. The 2nd Party-workman has not filed any letter of appointment or proof of having rendered service under the 1st Party-Management for a specified period against a regular post. The 1st Party-Management has further alleged that in time of exigencies only the 2nd Party-workman was employed. It means that with the end of exigencies his job also came to an end. In view of the matter the action of the management of State Bank of India, Main Branch, Bhubaneswar in terminating the services of Sri Satyananda Barik with effect from the alleged date of his termination is fair, legal and justified. This issue is accordingly decided in the affirmative and against the 2nd Party-workman.

ISSUE NO. 4

11. In view of the findings recorded above under Issues No.2 and 3, the 2nd Party-workman is not entitled to any relief whatsoever claimed.

12. Reference is answered accordingly.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 जुलाई, 2012

का.आ. 2533.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स आयल एण्ड नैचुरल गैस कारपोरेशन अंक्लेश्वर, गुजरात के प्रबंधन के

संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 823/2004 पुराना न. 35/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-7-2012 को प्राप्त हुआ था।

[सं. एल-30011/70/2003-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 9th July, 2012

S.O. 2533.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 823/2004 Old No. 35/2003) of the Central Government Industrial Tribunal/ Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ONGC Ltd., Ankleshwar (Gujarat) and their workman, which was received by the Central Government on 2-7-2012.

[No. L-30011/70/2008-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present:

Binay Kumar Sinha, Presiding Officer
CGIT cum Labour Court,
Ahmedabad, Dated 17th May, 2012

Reference: CGIT A of 823/2004

Reference: ITC. 35/2003 (Old)

The Assistant Manager (projects),
ONGC Ltd., Ankleshwar Project,
Ankleshwar (Gujarat), ... First Party

And their workman

Shri Dwarkesh Kulwantra Pandya (since dead)
Heirs Substituted

1a. Jaishriben Pandya Widow

1b. Yesha Pandya minor Daughter

1c. Rut Pandya minor Son

Represented through,
Bharatiya Karmachari Sangh,
Vishwakarma Shramsadhna Trust,
101, Shirali Complex, Kothi Char Rasta,
Anustu Tekri, Baroda-390001 ... Second Party

For the first party : Shri Pradeep F. Jhaveri, Advocate
(Naidu Associates)

For the second party : Shri J. I. Shah, Advocate

AWARD

The Appropriate Government/Bharat Sarkar/
Ministry of Labour considering an Industrial Dispute

existing between the employer in relation to the management of ONGC Ltd. Ankleshwar project and their workman by its order No. L-30011/70/2003 [IR (M)] New Delhi dated 13-10-2003. In exercise of the powers conferred by clause (d) of sub-section (1) and sub Section 2 (A) of Section 10 of the ID Act, 1947 referred the dispute for adjudication to the Industrial Tribunal, Baroda by formulating the terms of reference as follows :—

SCHEDULE

“Whether the action of the management of ONGC Ltd., Ankleshwar in not giving the benefit of seniority and promotion to the workman Shri Dwarkesh Kulwantrai Pandya, Assistant Technician (Production) is legal, proper & justified? If not, to what relief the concerned workman Shri Pandya is entitled to and from which date and what other directions are necessary in the matter?”

2. Parties to the case appeared in this case and filed respective pleadings. Viz 2nd party workman Dwarkesh himself filed statement of claim at Ext. 3 on 23-1-2004 and 1st party its written statement at Ext. 7 on 5-1-2005.

3. The case of the workman (2nd party) is that Dwarkesh Pandya joined with ONGC on 15-1-1990. Due to sickness he had remained absent from 6-11-1995. Subsequently his services were terminated by ONGC on the guise of abandonment without following due process of law. The said action of ONGC was challenged by Mr. Pandya before Industrial Tribunal (Central) at Baroda vide Reference No. ITC. 17/1995 and the tribunal gave its award on 5-10-2000 directing ONGC to reinstate Mr. Pandya in his original post with 65 % back wages and stoppage of one increment for one year from 16-4-1996. ONGC challenged the award in the High Court of Gujarat vide SCA No. 48812001. Then High Court modified the award of Tribunal holding that workman Mr. Pandya is not entitled for any back wages but other part of the award of Industrial Tribunal was not disturbed and ONGC was directed to reinstate the workman Mr. Pandya without back wages but with punishment of stoppage of one increment without future effect and with continuity of service. ONGC preferred LPA No. 229/2001 against the order of Hon'ble Single Judge but that was rejected on 30-3-2001 and as per direction of Division Bench in LPA No. 229/2001 the ONGC was directed to comply with the order of Hon'ble Single Judge by 10th April, 2001. The ONGC reinstated the workman (Mr. Pandya) w.e.f 9-4-2001 as Assistant Technician (production) which was the post and designation on 6-11-1995 when his services were terminated. Further case of the workman (Mr. Pandya) is that ONGC wrongly interpreted the award of the Industrial Tribunal passed in Ref. ITC 17/99 and the modified order of the Hon'ble High Court. The workman Mr. Pandya represented through a letter to Manager, P & A to count seniority, and to protect pay and designation at par with his colleagues who have

joined the ONGC along with him. But no heed was paid by the management of ONGC. Then the workman Mr. Pandya through the union raised Industrial Dispute before ALC (Central) as Baroda making demands. On failure report submitted, the appropriate Govt. then referred the dispute for adjudication to Industrial Tribunal. The workman has sought for relief that the 1st party (ONGC Ltd) be directed to consider the service of the workman Mr. Pandya a continuous service without break from the date of termination on 6-11-1995 to the date of reinstatement and ONGC may be further directed to give the post of chageman (production) with all consequential benefits and revision of pay scales and also for direction to place Mr. Pandya. at par with his juniors who have joined along with him.

4. The case of the 1st party (ONGC Ltd.) pleading inter-alia as per w.s. is that the reference is not maintainable, the workman (2nd party) has no locus standi to raise such dispute and this tribunal has no jurisdiction to adjudicate the present dispute. The 1st party's stand is that the statement and allegation made in the statement of claim are not true and not admitted. The first party has come up with such case that Shri Dwarkesh Kulwantrai Pandya, Assistant Technician (Production) I.D. No. 72502 remained absent unauthorisedly for a period exceeding 90 days and therefore he was deemed to have resigned from the service of ONGC w.e.f. 6-11-1995 (F.N.). The case regarding deemed resignation of Shri Dwarkesh Kulwantrai Pandya was referred to the Industrial Tribunal, Baroda and after hearing both the parties Tribunal passed an award directing the ONGC to reinstate Shri Pandya at his original post of AT (P) with continuity of service and 65% back wages and also imposing on him penalty of withholding one increment without cumulating effect for a period of one year. The ONGC challenged the award before the High Court by filing SCA No. 488/2001 and the Hon'ble Single Judge modified the award of Industrial Tribunal passed in ITC 17/99 for reinstatement without back wages and with continuity of service and withholding of one increment was kept as it is. The ONGC went in LPA but Division Bench dismissed the appeal and directed the ONGC to implement the award of ITC as modified by the Single Judge of the High Court before 10-4-2001. Thereafter ONGC obeyed the order of the Hon'ble High Court and reinstated the second party workman w.e.f 9-4-2001. On these scores prayer is made to dismiss the reference since second party workman is not entitled for any relief

5. The workman Dwarkesh Kulwantrai Pandya died on 1-7-2007 during pendency of this reference case and his heirs widow and one minor daughter and one minor son were substituted on filing of substitution application with death certificate at Ext. 14 and 14/1 and the 1st party having no objection endorsed on Ext. 14 on 10-9-2008.

6. In view of the rival contention of the parties as per their pleadings the following issues are taken up for determination in this case.—

ISSUES

- (I) Whether the reference is maintainable?
- (II) Whether the workman Dwarkesh Kulwantra Pandya during his lifetime and thereafter his heirs (substituted 2nd party) have had any locus standi or cause of action to raise the Industrial Dispute demanding benefit of seniority and promotion since after reinstatement of Mr. Pandya on 9-4-2001?
- (III) Whether passing of award by the Industrial Tribunal in ITC 17/99 and with modification/confirmation order by the Hon'ble Court in SCA 488/2001 regarding reinstatement of workman Mr. Pandya, with continuity in service but without back wages and maintaining imposing of penalty of stoppage of one increment for one year and thereafter reinstatement of Mr. Pandya w.e.f 9-4-2001 give any right to the 2nd party for demanding seniority and promotion of workman Dwarkesh Kulwantra Pandya (since dead)?
- (IV) Whether the 2nd party is entitled for any relief in this case?

FINDINGS**7. ISSUE No. III**

The workman Dwarkesh Kulwantra Pandya deposed in his oral evidence at Ext. 10 that the persons appointed along with him have got seniority and promotion but he has been denied promotion by the management of ONGC, even after his reinstatement with continuity in service. He was cross-examined by the lawyer of the 1st party ONGC, and he admitted that as per order of the Hon'ble High Court he has been taken in employment and that he is getting benefits as per order/award, He claims benefit as per his status and as per benefit given to his colleagues. However he admitted his colleagues are permanent employees during the period 6-11-1995 to 9-4-2001 and during that period he was not in employment in the ONGC. The first party did not lead any oral evidence and closed its stage of oral evidence as per pursis at Ext. 40.

8. Some of the admitted facts are as follows. The workman Mr. Pandya, remained unauthorised absent exceeding 90 days and thereafter the management of ONGC passed order as to his deemed resignation. The workman was terminated w.e.f. 6/11/1995. The workman Mr. Pandya raised Industrial Dispute resulting in Reference Case vide ITC 17/1999 and the Industrial Tribunal, Baroda, adjudicated upon the dispute and passed award directing the ONGC for reinstatement of the workman Mr. Pandya and payment of 65% backwages and having continuity of service. But the Industrial Tribunal in its award not fully exonerated the workman and modified the penalty of termination w.e.f. 06/11/1995 to the penalty of stoppage of one increment for one year. The ONGC challenged the

award of Industrial Tribunal in SCA No.488/2001 before the Hon'ble High Court of Gujarat. Wherein reinstatement with continuity was maintained but without back-wages. Further modified order of punishment of stoppage one increment for one year was also maintained under the award of Industrial Tribunal in ITC.17/1999. The ONGC challenged this order of Hon'ble single judge in LPA No. 229/01 which was rejected and on direction given by Division Bench in LPA to reinstate the workman Mr. Pandya as directed by Learned Single Judge in SCA 488/2001 preferable by 10-4-2001. The ONGC reinstated Mr. Pandya (Workman) on 9-4-2001 on the original post of Assistant Technician (Production) and was getting benefits as per award/order of Industrial Tribunal/High Court as per his evidence at Ext. 10.

9. On behalf of second party copy of office order of ONGC dated 16-1-1990 at Ext. 25 has been filed to show that the workman at Serial No.8 along with 26 person were appointed on 16-1-1990 as Trainee Asst. Technician (Production). Copy of promotion order dated 23-7-1997 at Ext. 26 has been filed to show 26 Asst. Technician (Production) were promoted to the post of Junior Technician (Production) and among them several are junior to the workman Mr. Pandya. But through Ext. 25 and 26 the learned counsel appearing for the 2nd party could not convince or even connect how the workman Mr. Pandya (admittedly no more) will claim for promotion to Junior Tech. (Production) when he was out of service of ONGC from 6-11-1995 to 8-4-2001. More so, the learned counsel Mr. I.J. Shah, Advocate could not convince that even/after keeping the penalty of stoppage of one increment intact up to the Hon'ble High Court how 8 workmen can claim for himself to be treated at par with his colleagues joined on 15/16.01.1990 in ONGC. On the other hand Shri P.F. Jhaveri, Learned Lawyer appearing for the 1st party (ONGC) argued that order as to continuity of service will count for length of service for pensionary benefits etc. on superannuation and not for other purpose like seniority increment and promotion. He in support of such argument has relied upon Apex Court judgment reported in 2007 LLR 358 in the case of J.K. Synthetics Ltd. V/s K.P. Agrawal & Anr. at para 19 (last few lines) the Hon'ble Apex Court has clearly held ... similarly in such case even where continuity of service is directed, it should only be for purpose of pensionary/retirement benefits, and not for other benefits like increments, promotions etc. Another case law relied upon by Mr. P. F. Jhaveri in the case of Andhra Pradesh State Road Transport Corporation and others and Abdul Kareem (2005-III-LLJ S.C. 477) wherein their Lordship have held if reinstatement directed by Labour Court without back wages and no specific direction given entitling workman to consequential benefits, then workman cannot claim benefit of notional increments during the period out of service. Admittedly in the instant case the workman Mr. Pandya was out of service from 6-11-1995 to

8/9-4-2011 and as per award of Industrial Court passed in ITC 17/99 dated 5-10-2000 there was no order for consequential benefits, because of rule of prudence that the workman had not been exonerated rather punishment of termination was modified to stoppage of one increment. So when punishment in modified form remained intact up to High Court, then how on the basis of continuity in service, the workman can make legitimate demand of increment and promotion at par with his colleagues whose services with ONGC had remained unblemished. Whereas the services of the workman remained with blemished. It is clear rule that the employees/workman having clean tenure of service are expected to get promotion then that of workman having no clean service carrier.

10. Ext. 27 is the copy of award of Industrial Tribunal dated 5-10-2000. Ext. 28 is order dated 7-3-2001 of High Court passed in SCA 488/2001, Ext. 29 is order dated 30-3-2001 passed by Division Bench in LP A 229/2001. These documents have already been discussed in the foregoing paragraphs. Ext. 30 is copy of the office order dated 20-4-2011 regarding pay fixation of the workman Mr. Pandya on his reinstatement on 9-4-2011 and by that order his pay was fixed at Rs. 8392 (scale code No.4) with the further order as to his increment due on 1-1-2002 is with held without cumulative effect. More so as per evidence of workman Mr. Pandya at Ext. 10 he is getting all benefits as per order. Ext. 31 copy of demand notice of union given to ONGC, and Ext. 32 copy of intervention letter of union to ALC (Central) are of no avail to the 2nd party to base claim seeking for reliefs as claimed.

11. On the other hand the case laws relied upon by Shri J. I. Shah Advocate for the 2nd party- (1) Gurpreet Singh V/s. State of Punjab 2002 (92) FLR page 838, (2) C.O. Arumugam V/s. State of Tamil Nadu (1991) SCC Sup 2 page 199 and (3) State of Kerala &: others V/s. K. Bhaskaran. Pillai (2007) 6SCC 524 are not applicable in the instant case of the 2nd party workman.

12. Upon consideration of the evidence and materials on the record and also in view of the case laws relied upon by the parties, I am of the considered view that the workman Mr. Pandya, has had no any legitimate ground to raise again an Industrial Dispute and demanding for his seniority and promotion at par with his colleagues in this reference case. This issue is decided against the 2nd party.

13. ISSUE No. II

In view of the findings given to issue No. III in the foregoing paragraphs I further find and hold that the workman Dwarkesh Pandya during his lifetime and thereafter his heirs (substituted) 2nd party have had no locus standi or any cause of action to raise Industrial Dispute demanding for benefits of seniority and promotion since after reinstatement on 9-4-2001. This issue is also decided against the 2nd party.

14. ISSUE Nos. I & IV

In view of findings given to issue No. II and III in the foregoing, I further find and hold that the reference is not maintainable and the 2nd party are not entitled to get any relief in this case.

The reference is therefore, rejected on contest. No order as to any cost.

This is my award.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 9 जुलाई, 2012

का.आ. 2534.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स इंडियन आयल कारपोरेशन रिफाइनरीज प्रभाग पानीपत, हरियाणा के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 1 दिल्ली के पंचाट (संदर्भ संख्या 270/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-7-2012 को प्राप्त हुआ था।

[सं. एल-30012/31/2005-आईआर(एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 9th July, 2012

S.O. 2534.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 270/2011) of the Central Government Industrial Tribunal/Labour Court, No 1 Delhi, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. IOCL, Refinery Division Panipat (Haryana) and their workman, which was received by the Central Government on 2-7-2012.

[No.L-30012/31/2005-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL No.1,
KARKARDOOMA COURTS COMPLEX : DELHI**

I.D.No.270/2011

Shri Chhabil Kumar
S/o Sh.Hari Singh
R/o Vill-Kharkara,
Rohtak, Haryana

... Workman

Versus

The Manager,
IOCL, Refinery Division,
Panipat Refinery,
Haryana.

.. Management

AWARD

An apprentice was given training by Indian Oil Corporation Ltd., (in short the Corporation) at its Refinery Division, Panipat, Haryana. After conclusion of his

training, he was not found fit for regular appointment. Hence, regular appointment was not given to the apprentice by the Corporation. Feeling aggrieved, he raised an industrial dispute before the Conciliation Officer. Since conciliation proceedings failed, the appropriate Government referred the dispute for adjudication to Central Government Industrial Tribunal No. II, New Delhi, vide order No.L-30012/31/2005-IR(M), New Delhi dated 17-8-2005, with following terms:—

“Whether the action of the management of Indian Oil Corporation Ltd., Panipat, in terminating the services of Shri Chhabil Kumar son of Shri Harish Singh, Operator Electrical, w.e.f. 6-11-2011 is legal and justified?”

2. Claim statement was filed by the said apprentice, namely, Shri Chhabil Kumar pleading that he was engaged as Operator Electrical by the Corporation w.e.f. 2-9-2000. Prior to that he was appointed as apprentice w.e.f. 6-11-1999 to 6-9-2000. He successfully completed his training, to the entire satisfaction of the Corporation. A bond was executed by him with the Corporation, admitting therein that he would serve the Corporation for a minimum period of 3 years, from the date of his appointment. An Identity Card was issued, giving Employee No. as TRP/P-II P83435 by the Corporation. He was working under direct control and supervision of manager, Panipat Refinery Division, Panipat, Haryana. His services were terminated in an illegal manner, without following pre-requisites contained in Section 25F of the Industrial Disputes Act 1947, (in short the Act). Juniors to him are working with the Corporation. No charge sheet or a warning letter ever was issued. No domestic enquiry was conducted prior to termination of his services. He is unemployed since the date of termination of his services. He claims that he may be reinstated in the services of the Corporation with continuity and full back wages.

3. The claim was demurred by the Corporation pleading that the claimant is not a workman, within the meaning of clauses (s) of Section 2 of the Act. Since, he was not a workman, he was not entitled to raise an industrial dispute. He cannot invoke provisions of Section 2 A of the Act. He was a trainee under the Apprentices Act, 1961. His terms and conditions of service are detailed in communication dated 19-8-1999. During the period of his training, he was paid stipend in terms of rules and regulations, under the Apprentices Act. Thereafter, he opted and elected to undergo training in electrical discipline for a period of another year. He was allowed to undergo training with effect from 18-9-2000, in terms of offer dated 7-9-2000. It was stipulated therein that for his absorption he was to pass departmental test, as prescribed from time to time. He appeared in written test/ interview conducted on 6-11-2001 along with other candidates, but could not qualify the test. He secured only 26 marks out of 80, while qualifying marks were 32. The claimant again appeared for test/ interview, but could not qualify that test also. Thus,

he was not given regular appointment in services of the Corporation. He was engaged for imparting training which does not create any right in his favour for being absorbed in services of the Corporation. His absorption was not automatic but dependent on passing of departmental test. Issuance of Identity Card is not a matter of dispute, pleads the Corporation. He was paid stipend Rs.2500 per month from September 2000 to September 2001. He was not engaged thereafter. He was fully aware that after expiry of one year he would be relieved from training, as per stipulation. He has no claim for reinstatement in service, presents the Corporation.

4. Claimant entered the witness box to substantiate his claim. Shri B.S.Salan, Senior Manager (HR), tendered his affidavit, as evidence, on behalf of the Corporation. Since the claimant opted to abandon the proceedings w.e.f. 23-9-2011, hence opportunity could not be accorded to him to purify facts detailed by Shri Salan, by an ordeal of cross-examination. No other witness was brought forward by either of the parties.

5. Since the claimant had abandoned the proceedings w.e.f. 23-9-2011, the matter was preceded under rule 22 of the Industrial Disputes (Central) Rules 1957. Arguments were advanced by Shri Vivek Kaushal, authorised representative, for the Corporation. I have given my careful consideration to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows:

6. Claimant swears in his affidavit dated 26-8-2006, tendered as evidence, that he was engaged as operator electrical by the corporation w.e.f. 2-9-2000. He was appointed as apprentice w.e.f. 6-11-1999 to 6-9-2000. He has successfully completed the training. He was performing jobs with the Corporation as per terms, of his appointment. At that time, he was called upon to execute a bond, admitting therein that he would serve the Corporation for a minimum period of 3 years from the date of his appointment. Identity Card along with Employee Code No. PRP/P-IIP83465 was issued in his favour. Salary slips from September 2000 to September 2001 were issued. His services were illegally terminated by the Corporation on 6-11-2001. During the course of cross-examination, he concedes that he was engaged in terms of letter dated 7-9-2000 and paid stipend of Rs. 2500 per month. He does not dispute that after completion of 1 year training in the year 2000, he appeared for test on 6-11-2001 and could not qualify it. He obtained only 26 marks out of 80, while he was required to obtain 32 marks to qualify the test. He concedes that he was to be retained on the post of Telephone Operator only on successfully qualifying written test, which he could not. On 4-6-2004 he was again called for written test, but could not qualify it also. He nowhere disputes that the persons, who could not qualify the written test/interview, were not given employment by the Corporation. He was given stipend for the training

period. His training came to an end in the month of September 2001. He further concedes that on 6-11-2001, his services were not terminated but on the other hand, his training came to an end.

7. Shri B.S. Salan swears in his affidavit dated 27-11-2006, tendered as evidence, that the claimant was engaged as a trainee, hence he was not a workman. He was engaged as an apprentice in the first instance under the Apprentices Act. During the period of training, he was paid stipend in terms of rules and regulation provided under Apprentices Act. Thereafter he opted and elected to undergo training in electrical discipline for a period of a year. He was allowed to undergo training for a period of 1 year w.e.f 18-9-2000, in terms of offer dated 7-9-2000. Thereafter, he appeared in a departmental test but could not qualify it. His absorption was not automatic but based on fulfillment of pre-conditions of qualifying written test. The matter did not end there. He again appeared for test and failed to qualify it. He was never appointed as operator electrical. Since he could not qualify the test, hence he had no right to seek his appointment with the Corporation.

8. When facts unfolded by the claimant and Shri B.S. Salan are appreciated, it came to light that initially claimant was engaged as a trainee under the Apprentices Act. After completion of the training as an apprentice, he again opted and elected to undergo training in electrical discipline for a period of 1 year. Corporation allowed him to undergo training w.e.f. 18-9-2000. His training came to an end on 6-11-2001. Since he could not qualify test and interview at all, he was not given an appointment by the Corporation. Question for consideration comes whether the claimant was a workman, when he worked as an apprentice with the Corporation? For an answer, definition of “workman” contained in clause (s) of Section 2 of the Act is to be construed. For sake of convenience the said definition is extracted thus:—

“(s) “Workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or has a consequence of, that dispute or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) Who is subject to Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957), or
- (ii) Who is employed in police service or as an officer or other employee of a prison; or
- (iii) Who is employed mainly in managerial or administrative capacity; or

- (iv) Who, being employed in a supervisory capacity draws wages exceeding one thousand six hundred rupees per man some or exercises either by nature of the duties attached to the office by reason of the powers vested in him, function mainly by a managerial nature”.

9. As provisions of clause(s) of Section 2 of the Act highlight, an apprentice has specifically been included in the definition of “workman” but provisions of the Apprentices Act defines the term “apprentice” to mean “a person who is undergoing apprenticeship training in a designated trade in pursuance of a contract of apprenticeship”. Section 18 of the Apprentices Act provides that an apprentice shall be a trainee and not workman. It has further been stipulated therein that the provisions of any law with respect to labour shall not apply to or in relation to such apprentice. For sake of convenience provisions of Section 18 of Apprentices Act are extracted thus:—

“18. Apprentice are trainees and not workers - save as otherwise provided in this Act, —

- (a) Every apprentice undergoing apprenticeship training in a designated trade in an establishment shall be trainee and not a worker, and
- (b) The provision of any law with respect to labour shall not apply to or in relation to such apprentice”.

10. It is relevant to note that the word “apprentice” as defined in clause (aa) of Section 2 of the Apprentices Act makes it clear that an apprentice shall only be a trainee and not a “worker” and the provision of “any law with respect to labour” shall not apply to or in relation to him. Employees under various labour laws have been defined by different expressions. For instance, in the Factories Act 1948, the expression “workers” has been used, in the Employees State Insurance Act, 1948 the expression “employee” has been used while in Section 2 (s) of the Act, the expression “workman” has been used which means “any person including an apprentice” employed in any industry

11. The Apex Court in Employees State Insurance Corporation [1976 (1) LLJ-81] considered the scheme of Apprentices Act 1961 particularly the definition of “apprentice” in Section 2 (aa) and provisions of Section 18 of that Act and the definition of “employee” in section 2(9) of the Employees State Insurance Act 1948 and ruled that an “apprentice” is not “employee” as defined in the Employees State Insurance Act. The Court made a significant observation that if the legislature intended to enlarge the definition of word “employee” in Section 2(9) of the Employees State Insurance Act; it could have included word “apprentice” in it, as has been done in Section 2(s) of the Act. Such a deliberate omission, on the part of the legislature, can be attributed only to the well known concept of “apprenticeship” which the legislature

assumed and took note of for the purpose of the Act. That is not to say if the legislature intended, it could not have enlarged the definition of word “employee” even to include “apprentice”, but the legislature did not choose to do so.

12. In Hanuman Parsad Choudhary (1986 Lab IC 1014) the Rajasthan High Court was confronted with the proposition as to whether an “apprentice” as defined in Section 2(aa) and the provision of Section 18 of the Apprentices Act will not be “workman” as defined in Section 2(s) of the Act, despite having specifically been included in the definition. The Court pointed out that the Apex Court in Employees State Insurance Corporation (supra) had not considered the definition of “workman” in Section 2 (s) of the Act in conjunction with the provision of Section 18 of the Apprentices Act, since the Court was primarily concerned with the question as to whether an apprentice could be regarded as an employee under Section 2 (9) of the Employees State Insurance Act, 1948. The High Court ruled that the said decision cannot be read as laying down that in spite of the provisions of Section 18 of the Apprentices Act, an “apprentice” governed by the Apprentices Act is to be treated as a “workman” under Section 2(s) of the Act. The High Court, therefore, held that an apprentice governed by the Apprentices Act is not workmen for the purpose of the Act and the provision of the Act would not be applicable to him.

13. A contract of apprenticeship under the provision of Apprentices Act, is required to be registered. Section 4 of the Apprentices Act contemplates existence of a concluded contract of apprenticeship which is required to be sent for registration. For sake of convenience provisions of Section 4 of the Apprentices Act, are extracted thus:—

“4.Contract to apprenticeship —

- (1) No person shall be engaged as an apprentice to undergo apprenticeship training in a designated trade unless such person or, if he is minor, his guardian has entered into a contract of apprenticeship with the employer.
- (2) The apprenticeship training shall be deemed to have commenced on the date on which the contract of apprenticeship has been entered into under sub-section (1).
- (3) Every contract of apprenticeship may contain such terms and conditions as may be agreed to by the parties to the contract:
Provided that no such term or condition shall be inconsistent with any provision of this Act or any rule made there under.
- (4) Every contract of apprenticeship entered into under sub-section (1) shall be sent by the employer with in such period as may be

prescribed to the Apprenticeship Adviser for registration.

- (5) The Apprenticeship Adviser shall not register a contract of apprenticeship unless he is satisfied that the person described as an apprentice in the contract is qualified under this Act for being engaged as an apprentice to undergo apprenticeship training in the designated trade specified in the contract.
- (6) Where the Central Government, after consulting the Central Apprenticeship Council, makes any rule varying the terms and conditions of apprenticeship training of any category of apprentices undergoing such training, then, the terms and conditions of every contract of apprenticeship relating to that category of apprentices and subsisting immediately before the making of such rule shall be deemed to have been modified accordingly”.

14. As emerged out of the provision Section 4 of the Apprentices Act, as apprenticeship contract is required to be registered to become a contract of apprenticeship, as contemplated by sub section (4) of the said Section. An apprenticeship contract, under the provision of Apprentices Act, shall exclude applicability of any provision of any law with respect to labour to an apprentice. A person who has been engaged as an apprentice shall be a trainee and not a workman. Consequently an apprentice under the Apprentices Act shall not fall within the ambit of definition of “workman” as contained in Section 2(s) of the Act. However an apprentice, whose case does not fall within the ambit of the provisions of the Apprentices Act, shall be a workman within the meaning of Section 2(s) of the Act.

15. As emerge out of the agreement dated 19-8-1999 the claimant was engaged as an apprentice with the Corporation w.e.f. 6-11-1999 to 6-9-2000. Above agreement highlights that it was entered into between the claimant and the Corporation under Apprentices Act. The said agreement was sent for registration as contemplated by sub section (4) of Section 4 of the Apprentices Act. Consequently it is clear that on the strength of agreement dated 19-8-1999 the claimant was engaged as an apprentice. He was a trainee and not a workmen w.e.f. 6-11-1999 to 9-9-2000.

16. Offer of engagement as a trainee in electrical discipline was given to the claimant by the Corporation on 7-9-2000. When offer of engagement dated 7-9-2000 is perused it came to light that it is not an apprenticeship agreement, under the Apprentices Act. Shri Salan no where projects that this offer of engagement was under the provision of Apprentices Act, or this contract of apprenticeship was sent for registration. Consequently it is evident that offer of engagement given to the claimant

as electrical trainee was not covered within the provisions of Apprentices Act. Therefore engagement of the claimant from 18-9-2000 till 6-11-2001, though as an apprentice, would clothe him with the status of workman, as contemplated by Section 2(s) of the Act. The claimant, though engaged as an apprentice, was a workman. He was employed by the Corporation in its establishment to do the work of the nature, contemplated in the definition of the workman, contained in Section 2 (s) of the Act. It does not lie in the mouth of the Corporation to assert that the claimant was not a workman, when he was engaged as a trainee in electrical discipline w.e.f. 18-9-2000.

17. Agreement dated 7-9-2000 highlights that it was agreed in to between the claimant and the Corporation that for his absorption in service he had to qualify written test. The claimant appeared for written test on 6-11-2001 but could not qualify it. He concedes that he obtained 26 marks out of 80, while he was required to obtain 32 marks to qualify the test. He was again called for test which was also not qualified by him. Thus, it has emerged over the record that despite opportunities granted to the claimant, he could not qualify written test for his absorption in services of the Corporation.

18. The claimant concedes that on 6-11-2001 his training came to an end. He admits that on 6-11-2001 his services were not terminated. Therefore out of facts admitted by the claimant on those highlighted by Shri Salan it came to light that training of the claimant came to an end on 6-11-2001. He could not continue in service of the Corporation since he failed to qualify written test. Whether non-extension of his training period or act of relieving him when his training came to an end would amount to retrenchment?

19. For an answer, definition of the term retrenchment is to be construed. Clause (oo) of Section 2 of the Act defines retrenchment. For sake of convenience, the said definition is as extracted thus :

“(oo) “retrenchment” means the termination by the employer of the services of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- (a) voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the services of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c) termination of the services of a workman on the ground of continued ill-health”.

20. Definition of retrenchment is very wide and in two parts. The first part is exhaustive, which lays down that retrenchment means the termination of the service of a workman by the employer “for any reason whatsoever” otherwise than as a punishment inflicted by way of disciplinary action. Thus main part of the definition itself excludes the termination of service, as a measure of punishment inflicted by way of disciplinary action from the ambit of retrenchment. The second part further excludes (i) voluntary retirement of the workman, or (ii) retirement of workman on reaching the age of superannuation, or (iii) termination of the service of a workman as a result of non renewal of contract of employment, or (iv) termination of contract of employment in terms of a stipulation contained in the contract of employment in that behalf, or (v) termination of service on “the ground of continued ill health of the workman. Reference can be made to the precedents in Avon Services (Production Agencies) (Pvt.) Ltd. [1979 (I) LLJ 1] and Mahabir [1979 (II) LLJ 363].

21. Sub Clause (bb) purports to exclude from the ambit of the definition of retrenchment (i) termination of the service of a workman as a result of non-renewal of the contract of employment between the employer and the workman concerned, on its expiry, or (ii) termination of the contract of employment in terms of a stipulation contained in the contract of employment in, that behalf. The first part relates to termination of service of a workman as a result of non-renewal of the contract of employment between the employer and the workman concerned on its expiry. Thus “non-renewal of contract of employment” presupposes an existing contract of employment, which is not renewed. When services of an employee is terminated on account of non-renewal of contract of employment, between the employer and the workman, it does not amount to retrenchment. The second part refers to “such contract” being terminated under a stipulation in that behalf contained therein. The cases contemplated, under this part too, would not amount to retrenchment. However this sub-clause, being in the nature of an exception to clause (oo) of Section 2 of the Act, is ruled to be construed strictly when contractual agreement is used as *modus operandi* to frustrate claim of the employee to become regular or permanent against a job. The adjudicator has to address himself to the question whether the period of employment was stipulated in the contract of employment as a device to escape the applicability of the definition of retrenchment. See Shailendra Nath Shukla (1987 Lab. I.C, 1607), Dilip Hanumantrao Shrike (1990 Lab. I.C, 100) and Balbir Singh [1990 (1) LLJ. 443]. On review of law laid by the Apex Court and various High Courts, a single Judge of the Madhya Pradesh High Court, in Madhya Pradesh Bank Karamchhari Sangh (1996 Lab. I.C. 1161) has laid following principles of interpretation and application of sub-clause (bb) of clause

(oo) of Section 2 of the Act:

- “(i) that the provisions of Section 2(oo)(bb) are to be construed benevolently in favour of the workman,
- (ii) that if the workman is allowed to continue in service by making periodic appointments from time to time, then it can be said that the case would not fall under section 2(oo)(bb),
- (iii) that the provisions of Section 2 (oo)(bb) are not to be interpreted in the manner which may stifle the main provision,
- (iv) that if the workman continues in service, the non-renewal of the contract can be deemed as mala fide and it may amount to be a fraud on statute;
- (v) that there would be wrong presumption of non-applicability of Section 2(oo)(bb) where the work is of continuous nature and there is nothing on record that the work for which a workman has been appointed had come to an end”.

22. Whether provisions of retrenchment, enacted in the Act, provide for any security of tenure? Answer lies in negative. Provisions of retrenchment provide for certain benefits to a workman in case of the requirements of his service, falling within the ambit of definition of retrenchment. On compliance of the requirements of Section 25F or 25N and 25G of the Act, it is open to the employer to retrench a workman.

23. Termination of service of an employee during the period of probation was held to be covered by the exception contained in sub-clause (bb) of Section 2(oo) of the Act, in *C.M.Venugopal* [1994 (1) LLJ 597]. As per fact of the case, Regulation 14 of the Life Insurance Corporation of India (Staff) Regulation 1962 empowered the Corporation to terminate the service of an employee within the period of probation. The employee was put on probation for a period of one year, which was extended by another year. Since he could not achieve the target to earn confirmation, his service was terminated in terms of Regulation 14 as well as order of appointment. The Apex Court ruled that the case was covered by the exception contained in sub-clause (bb), hence it was not retrenchment.

24. In *Morinda Co-operative Sugar Mills Ltd.* (1996 Lab. I.C., 221) a sugar factory used to employ certain number of workmen during crushing season and at the end to the crushing season their employment used to cease. The Supreme Court held that despite the fact that the workmen worked for more than 240 days in a year, cessation of their employment at the end of crushing season would not amount to retrenchment in view of the provisions of sub-clause (bb) of Section 2(oo) of the Act. It was observed as

follows:

- “4. It would thus be clear that the respondents were not working throughout the season. They worked during crushing seasons only. The respondents were taken into work for the season and consequent to closure of the season, they ceased to work.
- 5. The question is whether such a cessation would amount to retrenchment. Since it is only a seasonal work, the respondents cannot be said to have been retrenched in view of what is stated in sub-clause (bb) of Section 2(oo) of the Act. Under these circumstances, we are of the opinion that the view taken by the Labour Court and the High Court is illegal. However, the appellant is directed to maintain a register for all workmen engaged during the seasons enumerated herein before and when the new season starts the appellant should make a publication in neighbouring places in which the respondents normally live and if they would report for duty, the appellant would engage them in accordance with seniority and exigency of work”.

25. Above legal position was reiterated by the Apex Court in *Anil Bapuro Kanase* [1997 (10) S.C.C. 599] wherein it was noted as follows:

- “3. The learned counsel for the appellant contends that the judgment of the High Court of Bombay relied on in the impugned order dated 28-3-1995 in Writ Petition No.488 of 1994 is perhaps not applicable. Since the appellant has worked for more than 180 days, he is to be treated as retrenched employee and if the procedure contemplated under Section 25-F of the Industrial Disputes Act, 1947 is applied, his retrenchment is illegal. We find no force in this contention. In *Morinda Coop. Sugar Mills Ltd. V, Ram Kishan* in para 3, this Court has dealt with engagement of the seasonal workman in sugarcane crushing, in para 4, it is stated that it was not a case of retrenchment of the workman, but of closure of the factory after the crushing season was over. Accordingly, in para 5, it was held that it is not ‘retrenchment’ within the meaning of Section 2(oo) of the Act. As a consequence the appellant is not entitled to retrenchment as per sub-clause (bb) of Section 2(oo) of the Act. Since the present work is seasonal business, the principles of the Act have no application. However, this Court has directed

that the respondent management should maintain a register and engage the workmen when the season starts in the succeeding years in the order of seniority. Until all the employees whose names appear in the list are engaged in addition to the employees who are already working, the management should not go in for fresh engagement of new workmen. It would be incumbent upon the respondent management to adopt such procedure as is enumerated above”.

26. In Harmohinder Singh [2001 (5) S.C.C. 540] an employee was appointed as a salesman by kharga canteen on 1-6-74 and subsequently as a cashier on 9-8-75. The letter of appointment and Standing Orders, inter alia, provided that his service could be terminated by one month's notice by either party. He was served with a notice to the effect that his service would be relinquished with effect from 30-6-1989. Relying precedent in Uptron India Ltd. [1998 (6) S.C.C. 538] the Apex Court ruled that contract of service for a fixed term are excluded from the ambit of retrenchment. Decision in Balbir Singh (supra) was held to be erroneous. It was also ruled that principles of natural justice are not applicable where termination takes place on expiry of contract of service.

27. In Batala Coop. Sugar Mills Ltd. [2005 (8) S.C.C. 481] an employee was engaged on casual basis on daily wages for specific work and for a specific period. He was engaged on 1-4-1986 and worked upto 12-2-94. The Labour Court concluded that termination of his services was violative of provisions of Section 25-F of the Act, hence ordered for his reinstatement with 50% back wages. Relying precedents in Morinda Coop. Sugar Mills (supra) and Anil Bapuro Kanase (supra) the Apex Court ruled that since his engagement was for a specific period and specific work, relief granted to him by the Labour Court can not be maintained.

28. The Apex Court dealt with such a situation again in Darbara Singh (2006 LLR 68) wherein an employee was appointed by the Punjab State Electricity Board as peon on daily wage basis from 8-1-88 to 29-2-88. His services were extend from time to time and finally dispensed with in June 1989. The Supreme Court ruled that engagement of Darbara Singh was for a specific period and conditional. His termination did not amount to retrenchment. His case was found to be covered under exception contained in sub-clause (bb) of Section 2(oo) of the Act. In Kishore Chand Samal (2006 LLR 65) same view was maintained by the Apex Court. It was ruled therein that the precedent in S.M. Nilajkar [2003 (II) LLJ 359] has no application to the controversy since it was ruled therein that mere mention about the engagement being temporary without indication of any period attracts Section 25F of the Act if it is proved that the concerned workman had worked continuously for more than 240days. Case of Darbara Singh and Kishan

Chand Samal were found to be relating to fixed term of appointment.

29. In BSES Yamuna Power Ltd. (2006 LLR 1144) Rakesh Kumar was appointed as Copyist on 29-9-89, initially for a period of three months as a daily wager. His term of appointment was extended up to 20-9-90. No further extension was given and his services were dispensed with on 20-9-90. On consideration of facts and law High Court of Delhi has observed thus :

" ... In the present case, the respondent was appointed as a copyist for totaling the accounts of ledger for the year 1986-87 and then for 1987-88. His initial appointment was for the period of three months. It was extended from time to time and no extension was given after 20th September, 1990. He was appointed without any regular process of appointment, purely casual and on temporary basis for specific work of totaling of ledger. When this work was over, no extension was given. I consider that appointment as that of the respondent is squarely covered under Section 2(oo)(bb) of the Act. Giving of non extension did not amount to termination of service, it was not a case of retrenchment”.

30. Precedents, handed down by Allahabad High Court in Shailendra Nath Shukla (supra), Bombay High Court in Dilip Hanumantrao Shirke (supra), Punjab & Haryana High Court in Balbir Singh (supra) and Madhya Pradesh High Court in Madhya Pradesh, Bank Karamchari Sangh (supra) castrate sub-clause (bb) of Section 2(oo) of the Act. Ratio decidendi in these precedents abrogates statutory provisions of sub-clause (bb) of Section 2 (oo) of the Act without even discussing the legality or constitutional validity of the clause. On the other hand the Apex Court in C.M. Venugopal (supra), Morinda Co-operative Sugar Mills Ltd. (supra), Anil Bapurao Kanase (supra), Harmohinder Singh (supra), Batala Coop. Sugar Mills Ltd. (supra), Darbara Singh (supra) and Kishore Chand Samal (supra) and High Court of Delhi in BSES Yamuna Power Ltd. (supra) spoke that case of an employee, appointed for a specific period which was extended from time to time, would be covered by the exception contained in sub-clause (bb) of Section 2(oo) of the Act, in case his services are dispensed with as a result of non-renewal of the contract of employment between him and his employer, on its expiry or termination of the contract of employment in terms of a stipulation contained in the contract of employment in that behalf. The law, so laid, holds the water and would be applied to the case of the claimant.

31. As is evident agreement dated 7-9-2000 empowers the Corporation not to absorb services of the claimant when he failed to qualify written test. It is emerging over the record that services of the claimant were dispensed with under stipulation contained in agreement dated

7-9-2000. The case of the claimant squarely falls within sub clause (bb) of clause (oo) of Section 2 of the Act. It does not amount to retrenchment.

32. Since act of reliving the claimant does not amount to retrenchment, provisions of Section 25F of the Act does not come into play. Neither corporation was under obligation to give one month notice nor pay in lieu thereof, besides amount of retrenchment compensation to the claimant. Act of the Corporation no where violates the provisions of the Act. No rights accrued in favour of the claimant for his absorption in services of the Corporation. His claim deserves dismissal. The same is, accordingly, dismissed. Award is passed in favour of the Corporation and against the claimant. It be sent to the appropriate Government for publication.

Dated 11-5-2012 Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 9 जुलाई, 2012

का.आ. 2535 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ऑयल एण्ड नैचुरल गैस कारपोरेशन, देहरादून के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 183/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-7-2012 को प्राप्त हुआ था।

[सं. एल-30012/66/2001-आईआर(एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 9th July, 2012

S.O. 2535.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 183/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Oil & Natural Gas Corporation Ltd. (Dehradun) and their workman, which was received by the Central Government on 2-7-2012.

[No. L-30012/66/2001-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT : Dr. MANJU NIGAM, Presiding Officer

I.D. No. 183/2001

Ref. No. L-30012/66/2001-IR (M) dated: 20-12-2001

BETWEEN

Neeta Sharma D/o Shri G.K. Sharma
R/o 48/2, Nari Shilp Mandir Marg
Chakrata Road
Dehradun

AND

The Chairman-cum-Managing Director
ONGC Ltd.

Jeevan Bharti Building
Cannught Place
New Delhi.

AWARD

1. By order No. L-30012/66/2001-IR (M) dated: 20-12-2001 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Neeta Sharma D/o Shri G.K. Sharma, R/o 48/2, Nari Shilp Mandir Marg, Chakrata Road, Dehradun and the Chairman-cum-Managing Director, ONGC Ltd., Jeevan Bharti Building, Cannught Place, New Delhi for adjudication .

2. The reference under adjudication is:

“Whether the action of ONGC management in terminating the services of Smt. Neeta Sharma, Computer Operator w.e.f. 1-8-99 is justified? If not, what relief the he is entitled to?”

3. The case of the workman, Neeta Sharma, in brief, is that she was appointed as Computer Operator on 4-8-98 and worked as such for more than 240 days continuously, till 31-7-1999 when her services were terminated abruptly on 1-8-1999 without assigning any reason or notice, in contravention of the provisions contained in Section 25 F. She has further alleged that one junior employee viz. Km. Taran Preet Kaur is still working with the opposite parties in violation of the provisions of the I.D. Act, 1947. Accordingly, the workman has prayed that her termination w.e.f. 1-8-1999 be declared illegal and unjustified and she be reinstated with back wages and continuity in service.

4. The management of the ONGC has disputed the claim of the workman by filing its written statement; wherein it has submitted that the workman was never appointed by it as Computer Operator; rather she was entertained as a ‘trainee’ and as a trainee, question of appointment in services of corporation does not arise at all; and accordingly, there arise no question of terminating her services on 1-8-99 as such there was no relationship of employer and employee between the opposite party and the workman. It has been submitted by the management that the initial tenure of training of the workman was only for six months, which expired on 31-1-99. The training period was renewed and same was extended for another six months at the oral request of the workman, which finally expired on 31-7-99; but after this no extension was granted to the workman in spite of her written request. A trainee is not and cannot be treated as employee/workman, employed by the Corporation and token amount given to her to cater her daily needs like conveyance/transportation problems

and other requirement of training does not constitute salary or wages. Discontinuation of training does not amount to retrenchment. It was further contended that after completing training, the applicant got employment with M/s. C.S. Instruments and Services (P) Ltd. It has been specifically denied that Km. Taran Preet Kaur was engaged as Computer Operator or was ever in the employment of opposite party as an employee. Just like applicant, Km. Kaur was a student of polytechnic and was sponsored by them for on job training. The management has specifically mentioned that the concept of working 240 days is totally irrelevant in the present matter as any of the provisions of the I.D. Act does not apply in the present case since the applicant does not fall in the category of 'workman'. It was further contended that the workman does not possess requisite qualifications for the post of Computer Operator, prescribed under Recruitment Rules; which is MCA/BE or B. Tech. in Computer Science from a recognized university, as such she could not be appointed as Computer Operator. Accordingly, the management of ONGC has prayed that the applicant is not entitled to relief of reinstatement in service or back wages or any other relief against the management. The claim is liable to be rejected on the foregoing reasons.

5. Rejoinder was filed; wherein apart from reiterating the averments made by her in the claim statement, she has stated that her services were engaged and salary was paid hence, she comes within the definition of 'workman' and there existed master-servant relationship between the opposite party and her.

6. The workman has filed photocopy of following documents vide list of documents dated 5-9-2002:

- (i) Working paper dated 21-7-98 to 12-4-99.
- (ii) Letter dated 4-8-98 from Principal, ONGC Mahila Polytechnic to GM, ONGC.
- (iii) Certificate dtd. 6-8-99, by Dr. V.K. Gupta.
- (iv) Letter by workman to ALC (C) dated 15-9-2000.
- (v) Letter By Sh. O.P. Chuhan to Secy. Govt. of India dated 29-6-2001.
- (vi) FOC report by ALC (C).
- (vii) Summon/notice by ALC (C).
- (viii) Appointment letter by C. S. Instruments and Services P. Ltd.
- (ix) Letter by workman to Chairman, ONGC.
- (x) Objection given by ONGC in ALC (C) dated 16-10-2000.
- (xi) Letter of Mrs. James Peters dated 3-10-2000 to ALC (C).
- (xii) Application of applicant u/s 2A I.D. Act.
- (xiii) Rejoinder by workman.

- (xiv) Certificate dated 2-7-99.
- (xv) Certificate dated 5-5-99, 2-6-99, 15-4-99, 1-3-99, 5-2-99, 1-1-99, 2-12-98, 2-11-98, 12-10-98 & 2-9-98.
- (xvi) Letter dated 13-10-98 by P&A officer.
- (xvii) Summer training gate pass.
- (xviii) Pay sanction order dated 6-8-98.
- (xix) Pay sanction order dated 2-9-98.
- (xx) Pay sanction order dated 12-10-98.
- (xxi) Cash payment voucher dated 12-10-98.
- (xxii) Pay sanction order dated 2-11-98.
- (xxiii) Pay sanction order dated 2-12-98.
- (xxiv) Pay sanction order dated 1-1-99.
- (xxv) Pay sanction order dated 3-2-99.
- (xxvi) Pay sanction order dated 1-3-99.
- (xxvii) Pay sanction order dated 15-4-99.
- (xxviii) Pay sanction order dated 5-5-99.
- (xxix) Pay sanction order dated 1-6-99.
- (xxx) Pay sanction order dated 2-7-99.
- (xxxi) Pay sanction order dated 5-7-99.
- (xxxii) Pay sanction order dated 3-8-99.
- (xxxiii) Cash payment voucher 4-8-99.

7. Following documents have been filed by the management vide list dated 5-9-2002 :

- (i) Payment vouchers in respect of the workman for the period 4-8-98 to 31-7-99.
- (ii) Attendance Register of HRG for the period January, 97 to December, 97.
- (iii) Attendance Register of HRG for the period January, 98 to December, 98.
- (iv) Certificate dated 6-8-99 issued in favour of workman.
- (v) Letter dated 4-8-98 of ONGC Mahila Pravidhik Prashikshan Sansthan sponsoring workman.
- (vi) Application dated 20-7-99 of workman for extension.
- (vii) Appointment letter dated 27-7-99 issued to workman by M/s. C. S. Instruments and Service Pvt. Limited, Dehradun.
- (viii) Certificated Standing Orders for contingent employees of ONGC.
- (ix) Modified Recruitment and Promotion Regulations 1980 and connected instruction of ONGC Ltd., (to prove that the corporation has to comply with provisions of

Employment Exchange (Compulsory Notification of Vacancies) Act.

- (x) Extract of R&P Regulations 1980 prescribing qualification for Computer Programmer (Sr. Technical Assistant Programming)
- (xi) Certificate dated 15-3-2001 issued to Ms. Taran Preet Kaur.
- (xii) Identity card issue to the workman.
- (xiii) Letter dated 17-11-99 of ONGC Mahila Pravidhik Prashikshan Sansthan sponsoring Taran Preet Kaur.

8. The applicant has examined herself in support of her case whereas the management has examined Dr. V.K. Gupta, Manager (P&A) and Shri D.K. Kalra, Chief Manager (IE) in support of their cases. The parties cross-examined witnesses of each other. The parties forwarded arguments in support of their respective averments.

9. Heard representatives of the parties and perused entire, evidence on record.

10. The case of the applicant is that she was appointed by the opposite party on the post of Computer Operator, without any appointment letter on 4-8-1998 and her services was terminated without any notice or compensation in lieu thereof w.e.f. 1-8-1999 in violation of provisions contained in Section 25 F of the I.D. Act, 1947 and further she has worked more than 240 days continuously and therefore, her services cannot be terminated without complying the provisions of Section 25 N and F of the I.D. Act. Termination of the applicant is illegal and unjustified; hence, directions be issued to the opposite party to reinstate the workman with full back wages and continuity of service with cost.

11. Per contra, the management of the ONGC at the very outset of the case has taken the plea that the applicant, Neeta Sharma was an “on the job trainee” and she had undergone through “training in Computers”, on recommendation of the Principal, ONGC Mahila Technical Training Institute vide their letter dated 4-8-1998. The applicant has undergone the said training, initially from 4-8-98 to 31-1-1999 and later this training period was extended for another six month, on her request, up to 31-7-99. It has been contended by the authorized representative of the management that such trainees, being not employees/workmen, are not amenable to the provisions of Certified Standing Orders as applicable to the workmen of the Corporation. It was further contended that since such trainees are not employees/workmen of the Corporation, hence there arises no question of giving them appointment order at all. Moreover, there exist no employer - employee relationship between the corporation and such trainees in as such they do not come within the purview of the definition of 'workman' as defined in Section 2 (s) of the I.D. Act, 1947. Since the applicant was a trainee, therefore, any of the provisions of the Act or that of Section

25 F or 25 N does not attract in the case of the applicant, Neeta Sharma as she was never appointed by the Corporation following due procedures laid down in its Standing Certified Orders; rather her name was sponsored by the ONGC Mahila Technical Training Institute for providing training in computers and accordingly, on the recommendation of the Principal of the said institute, Neeta Sharma was imparted training in Computers, hence she was nothing more than a trainee and not an appointee or a workman. The authorized representative of the management has also argued that since the applicant, Neeta Sharma is not a “workman” under Act; the reference is not maintainable as bad in the eye of law.

12. To sustain its contention that the applicant, Neeta Sharma was a trainee, the management of the ONGC has filed working certificate, issue to Neeta Sharma, paper No. 6/100, wherein she has been mentioned as 'trainee', letter dated 4-8-98 of the Principal, ONGC Mahila Technical Training Institute, paper No. 6/101, sponsoring Neeta Sharma for 'training in computers' and application of Neeta Sharma dated 20-7-1999; paper No. 6/102, whereby she has requested the management of ONGC to extend her tenure as “Computer Job Trainee” for another six months, gate pass issued to Neeta Sharma for 'summer training', paper No. 6/115. The management had relied on above documents; to show that the applicant, Neeta Sharma was a “trainee”. It has been emphasized that a trainee is not covered with the definition of workman as specified in Section 2 (s) of the I.D. Act, 1947.

13. To consider whether the applicant is workman, it is relevant to go through the definition of 'workman' defined in the Section 2 (s) of the Industrial Disputes Act, 1947:

“workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
- (ii) Who is employed in the police service or as an officer or other employee of a prison; or
- (iii) Who is employed mainly in a managerial or administrative capacity; or
- (iv) Who, being employed in a supervisory capacity, draws wages exceeding [ten

thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.”

14. In support of its contentions, the management has relied on 2004 (101) FLR 710 Vijayalakshmi Insecticides and Pesticides Ltd. vs. Chairman, Industrial Tribunal -cum- Labour Court, Vishakhapatnam and other. In the aforesaid case respondent was appointed as Trainee helper by the management for one year on the payment of consolidated amount of Rs. 1300 per month subject to extension of further period and regularization as per decision of management subject to satisfaction of his work. Respondent worked for two years. When his services terminated, he made representation. The management took a specific stand that the respondent cannot invoke jurisdiction of the Industrial Tribunal and submitted that being only a Trainee, the definition of 'workman' is not attracted and hence no relief can be granted. The Industrial Tribunal-cum-Labour Court granted relief in favour of the respondent, holding that trainee being 'apprentice'; hence, fall within the meaning of 'workman'. Aggrieved management preferred the writ petition; whereby the award of the Industrial Tribunal -cum- Labour Court was quashed and writ was allowed. It was observed Hon'ble Andhra Pradesh High Court that:

“The essential condition of a person being a workman within the terms of this definition is that he should be employed to do the work in that industry, that there should be in other words, an employment of his by the employer and him as between employer and employee or master and servant and unless a person is thus employed there can be no question of his being a workman within the definition of the term as contained in the Act.”

It has further observed that “a Trainee engaged by the petitioner-company does not fall within the definition of workman.”

In another case of Management of M/s Otis Elevator Co. (India) Ltd. vs. Presiding Officer, Industrial Tribunal III and another 2003 (98) FLR 53; the respondent was offered to undergo training as a Field/Trade Trainee in the petitioner organization, it was observed by the Hon'ble Delhi High Court that “the respondent engaged as 'trainee' by the petitioner company did not come under the definition of 'workman' and the “stipend” being paid to the respondent were not wages”. In the said case the training period of the respondent was not extended as he was not found to have an aptitude for the training in the trade of the petitioner. The award of Industrial Tribunal -cum- Labour Court was set aside and writ was allowed.

In 1998 (79) FLR 965 Kamal Kumar vs. J.P.S. Malik, P.D. Labour Court & others it has been observed by Hon'ble Delhi High Court that “in order to come within

the ambit of the expression 'workman' as defined under Section 2 (s) of the Industrial Disputes Act, it must be established that the person concerned is employed in industry and that mere finding of apprentice or trainee is not enough.” He has to prove and establish that he is employed in the respondent Corporation and that also to do any skilled or unskilled, manual, supervisory, technical or clerical work for heir or reward.

By the above discussed/cited case laws, management made earnest effort to prove that the applicant, Neeta Sharma who was engaged as 'on job trainee' was only a 'trainee' and not a 'workman' as defined under Section 2 (s) of the I.D. Act, 1947. There was no relationship of employer and employee between the corporation and the applicant.

15. It is very natural that in an industry various nature of jobs are cropped up and to cope up with the job requirements persons are engaged on various terms and conditions and these engaged persons are termed as employees and on their engagement to carry out work/job for the benefit/need of the industry, there forms a relationship of employer and employee between such industry and employees. Accordingly, to ascertain the relationship between the corporation and applicant it would be proper to check as to whether there was some job requirement with the ONGC or the engagement of the applicant was only for training/welfare measure.

16. In this regard the workman has filed photocopy of 'Working Paper' regarding engagement of a onthe job Computer Trainee, from ONGC Mahila Polytechnic, paper No. 3/3 to 3/4 wherein notes and order regarding engagement/extension and payment made to the applicant find their references. The opening note of the said working paper discloses the fact regarding engagement of one on-the-job Computer Trainee which is quoted as under:

“HRG, as one of the initiatives, has taken up an exercise to document and identify existing Corporate Level positions, indicating the incumbents occupying such positions in an Organization Chart form. It would consist of important informations also as follows:

- (a) Month/Year of joining present post.
- (b) Month/Year of posting at present station
- (c) Month/Year of posting at specific region
- (d) Month/Year of superannuation

Specimen in this regard (as on 1-4-98) is placed opposite for kind perusal.

Compilation & computerization of the data would require a lot of computer-work at the initial stage. Its periodical updation would also involve massive data-entry job till the system stabilizes. Hence, availability of a Computer Operator would facilitate the job to be completed as per plan.

In view of above, it is proposed that approval may kindly be accorded for engaging a student of ONGC Mahila Polytechnic as on-the-job Computer Trainee for a year on a fixed monthly stipend of Rs. 1500 with no obligation of the part of ONGC to provide employment thereafter. The trainee, as such will receive the requisite on-the-job training, and HRG's requirement of massive data entry will also be met with.

Submitted for kind approval please.

sd-
21-7-98
(Y. C. VERMA)
Manager (IE)HRG

Agreed for a period of 6 months.

sd-
23-7-98
Director (Pers.)

Reference kind approval of Director (P) on pre-page for engaging one trainee, through Mahila Polytechnic for a period of six months on consolidated stipend of Rs. 1500 per month. Accordingly one trainee has been engaged, and six month's period will expire on 31-1-99.

HRG has taken up massive work of data compilation & analysis, which includes corp. responsibility structure, age/qualification matrix etc. In order to assist compilation of the job in hand, approval for a further period of six months w.e.f. 1-2-09 is requested. May kindly approve.

sd-
15-1-99
GM(P&A) HRG
sd-
19-1-99
Director (P)"

17. A bare perusal of the above note/order sheet (s) shows that the ONGC was in need of a computer operator for Compilation & computerization of the data. The requirement of such computer operator was there till the massive data-entry job get accomplished and the system stabilizes. Hence, proposal for engaging a student of ONGC Mahila Polytechnic as on-the-job Computer Trainee for a year on a fixed monthly stipend of Rs. 1500 was put before higher authorities of the ONGC. In the said note dated 21-7-98 it is mentioned that 'the trainee, as such will receive the requisite on-the-job training, and HRG's requirement of massive data entry will also be met with.' This points out that the ONGC was in need of some computer operator for carrying out massive compilation and computerization work and for the same it engaged the applicant initially for a period of six months. Further, it is also very clear that while making engagement, the object was not welfare only but also management's own need for a computer operator

for compilation & computerization of data and when the object of data compilation and analysis was not accomplished in six months it was further extended for another spell of six months vide approval dated 19-1-99. The tenure of the applicant was not extended thereafter probably due to completion of the required work. Thus, the whole state of affair suggests that the management of ONGC was in need of services of a Computer Operator and accordingly, it engaged the applicant, Neeta Sharma on being sponsored by Mahila Polytechnic for a fixed time 6 + 6 months and when the said term expired or the work of data compilation completed, her services were dispensed with. The contention of the management that there was no employee - employer relationship between the applicant and the management do not appears to be tenable. Thus, in view of the facts and circumstances, it is established that there was employer -employee relationship between the management of ONGC and the applicant.

18. Hence, in view of the discussions made above I am of opinion that the management of ONGC was in need of services of a Computer Operator for compilation & computerization of the data and for the same the services of the applicant, Neeta Sharma was taken, thus, there was a relationship of employer and employee between the management of ONGC and the applicant, Neeta Sharma and the applicant is a 'workman' as laid down in 2004 (101) FLR 710 Vijayalakshmi Insecticides and Pesticides Ltd. vs. Chairman, Industrial Tribunal -cum- Labour Court, Vishakhapatnam and other.

19. As regard validity of termination of services of the workman, Neeta Sharma by the management of ONGC w.e.f. 1-8-99, from the perusal of the evidence on record it is evident that the workman was engaged as on-the-job Computer Trainee, initially, for a period of six months i.e. from 4-8-98 to 31-1-99 and thereafter, it was extended by the management for another six months i.e. up to 31-7-99. When the second term of engagement was about to expire, the workman vide her application dated 20-7-99, paper No. 6/102 requested the management for extension of its tenure but without any fruit. The said application dated 20-7-99 of the workman is reproduced hereunder:

"Respected Sir,

I have been working as a Computer Job Trainee in your esteemed Group since February'99, for a period of six months and obviously my period is scheduled to expire on 31st instant. I, therefore, approach you 'Sir' with an earnest request kindly to accord me another extension for a period of six months,

I shall feel obliged

Thanking you in anticipation,

Yours faithfully,
sd-
(Mrs, Neeta Sharma) "

20. The facts mentioned by the workman, herself in the above application dated 20-7-99 shows that her engagement was for a fixed period of six months only and from the endorsements made on the said application it is evident that she had worked with the management as Computer job trainee for the period 4-8-98 to 31-1-99 and 1-2-99 to 31-7-99. As already discussed the initial engagement of the workman was for a period of six months which expired on 31-1-99; but before its expiry it was extended for a further period of six months i.e. up to 31-7-99; and when her second spell was at the verge of expiry, workman made a request for its further extension of another six months, which was not accepted by the management and her services got automatically terminated w.e.f. 1-8-99 with the expiry of second spell on 31-7-99.

21. It is admitted case of the parties that Smt. Neeta Sharma was engaged as on-the-job Computer Trainee by the opposite party, on being sponsored by ONGC Mahila Polytechnic, without any appointment letter, initially for a period of six months only and later it was extended to another six months. However, her tenure was not extended to the third spell of six month's in spite of written request of the workman vide her application dated 20-7-99; and accordingly, her engagement automatically came to end with the end of her second spell of six months i.e. 31-7-99.

22. It was argued by the authorized representative of the workman that she had worked since 4-8-98 to 31-7-99 for more than 240 days in a year; accordingly, termination of her services without any notice or compensation is in violation of provisions contained in Section 25 F of the Industrial Disputes Act, 1947.

The workman has relied on (2010) 1 SSC (L&S) 420 Ramesh Kumar vs. State of Haryana, where Hon'ble Supreme Court has observed that in case of termination of casual employee what is required to be seen is whether she has completed 240 days of service in preceding 12 months or not and if he has, then his service cannot be terminated without giving notice or compensation in lieu of it in terms of Section 25 F.

Further, in another case 2004 (102) FLR 347 State of Gujrat & another vs. Chauhan Ramjibhai Karsanbhai, where services of a workman who has been appointed as Apprentice under the Apprentices Act, 1961, Hon'ble Gujrat High Court has observed that no examination is given under the Apprentices Act and no training given thereunder. The workman completed 240 days of continuous service and provisions of Section 25 - F of the I.D. Act not complied with and accordingly, held that the termination is void ab-initio.

But in the present case, the above case laws are not applicable as the workman's engaged was for a fixed period and the termination of her services does not come within the purview of the definition of 'retrenchment' as defined in Section 2 (oo) of the I.D. Act.

23. Contrary, the authorized representative of the management has contended that termination of services of the applicant are not covered by the definition of 'retrenchment' as provided in I.D. Act as her engagement was for a fixed period, which came to an end on 31-7-99. It was also contended that she was not a regular appointee of the Corporation. Hence, there is no need to comply the provisions of Section 25 F of the Act.

24. Here it is relevant to quote the definition of 'Retrenchment' as defined in Section 2 (oo) of the Industrial Disputes Act, 1947 as under:

"2(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- (a) xxxxxx
- (b) xxxxxx
- (c) termination of the services of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (d) xxxxx

In the case of Amit Yadav and others vs. Delhi Vidyut Board 2000 LAB I C 626, Hon'ble Delhi High Court has observed as under:

"When the right to continue on any post is purely contractual for a fixed period such a right would come to an end on expiry of such period."

In another case of Navodaya Vidyalaya vs. Smt. K.R. Hemavathy 2000 LAB I C 3745 the respondent was appointed as Clerk on temporary basis under fixed term of contract of service. The Hon'ble Karnataka High Court while allowing the appeal has observed that 'discontinuation of the respondent from services cannot be treated as 'retrenchment' even though she had worked for continuous period of 240 days'.

Similarly in the case of President, Peroorkada Service Co-operative Bank Ltd., Trivandrum vs. S. Sheena and others 2002 III/LLJ 459, respondents were engaged from time to time not exceeding five or six months each occasion on daily wages for casual works. It was observed by Hon'ble Kerala High Court that 'denial of work to such persons could not be held retrenchment'.

In M/s. Kalian Sharp India Ltd. vs. Labour Court 2002 (93) FLR 1183 Hon'ble Apex Court has observed that 'provisions of Section 25 F are not attracted and question of issued of notice before terminating the services of the respondent does not arise; where the services of he trainee technician has been terminated, as per terms of employment, before expiry of probation period'.

25. Thus, in view of the law laid down in the case law cited above and facts and circumstances of the case, I am of opinion that the engagement of the workman, Smt. Neeta Sharma with the management of ONGC was for a fixed term i.e. initially of six months and thereafter the same was extended for another six months, which expired on 31-7-1999; and accordingly, her termed engaged as on-the-job Computer Trainee came to an end w.e.f. 1-8-1999 with the expiry of second term of her engagement on 31-7-99. Discontinuation of services after the expiry of fixed term or contract does not fall with the term 'retrenchment' as defined in Section 2 (oo) of the I.D. Act. Therefore, the provisions contained in Section 25 F of the Industrial Disputes Act, 1947 are not attracted even though the workman had completed 240 days' working on the date of her termination.

26. For the forgoing reasons I come to the conclusion that the action of the management of ONGC in terminating the services of Smt. Neeta Sharma, Computer Operator w.e.f. 1-8-99 cannot be said to be unjustified; and the workman, Smt. Neeta Sharma is not entitled for any relief.

27. Award as above.

Dr. MANJU NIGAM, Presiding Officer

Lucknow : 24-5-2012

नई दिल्ली, 10 जुलाई, 2012

का.आ. 2536.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सतना स्टोन एंड लाईम कंपनी लिमिटेड, कोलकाता के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 13, 14, 89,90/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-7-2012 को प्राप्त हुआ था।

[सं. एल-29012/8, 9, 64, 65/2008-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 10th July, 2012

S.O. 2536.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 13,14,89,90/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Satna Stone Lime Co. Ltd., (Kolkatta) and others and their workman, which was received by the Central Government on 2-7-2012.

[No. L-29012/8, 9, 64, 65/2008-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Presiding Officer: SHRI MOHD. SHAKIR HASAN

CASE No. CGIT/LC/R/13/08,14/08, 89/08 & 90/08

Shri Ram Saroj Kushwaha,
General Secretary,
AITUC Distt. Parishad,
AITUC Office, Sidharth Nagar,
Post Birla Vikas,
Distt. Satna (MP)

...Workman/Union

Versus

The Managing Director,
Satna Stone Lime Co. Ltd.,
6, Middle Road, Hasting,
Kolkatta

...Management

AWARD

Passed on this 16th day of May, 2012

1. (a) The Government of India, Ministry of Labour vide its Notification No.L-29012(8)/2008-IR (M) dated 4-3-2008 has referred the following dispute for adjudication by this tribunal:—

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-00 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP, in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Durga Dhobi S/o Shri Munna Dhobi and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(b) The Government of India, Ministry of Labour vide its Notification No.L-29012(9)/2008-IR (M) dated 4-3-2008 has referred the following dispute for adjudication by this tribunal:—

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna, MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Jagdish Dhobi S/o Shri Bhola Dhobi and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(c) The Government of India, Ministry of Labour vide its Notification No.L-29012(64)/2008-IR(M) dated 10-6-2008 has referred the following dispute for adjudication by this tribunal:—

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Smt. Kalli Kolin W/o Shri Devideen Kaul and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(d) The Government of India, Ministry of Labour vide its Notification No.L-29012(65)/2008-IR(M) dated 10-6-2008 has referred the following dispute for adjudication by this tribunal:—

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna, MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Smt. Agsiyabai Kolin W/o Shri Sadool Kaul and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

2. All the four reference cases are taken up together as all are between the same parties and are on a common subject-matter.

3. The Union/workmen did not appear in the reference cases inspite of sufficient service of notice and reasonable time was granted for filing the statement of claims with documents. The reference orders also show that the Union was directed by Desk Officer to file Statement of Claim with relevant documents, list of reliance and witnesses with the Tribunal within fifteen days on receipt of the order but even then neither the Union nor the workmen appeared to raise dispute. This shows that now there is no dispute with the management.

4. The management also did not appear in the Tribunal in spite of sufficient service of notice. This also shows that the management did not want to contest the references. This is a case of no dispute. Accordingly the references are answered.

5. In the result, a common no dispute award is passed in all the references without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 10 जुलाई, 2012

का.आ. 2537.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स मैगनीज

ओर इंडिया लिमिटेड, नागपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 26/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-7-2012 को प्राप्त हुआ था।

[सं. एल-29012/49/2003-आईआर(एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 10th July, 2012

S.O. 2537.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 26/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s M.O.I.L. (Nagpur) and their workman, which was received by the Central Government on 2-7-2012.

[No. L-29012/49/2003-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE SHRI J.P.CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/26/2004

Date: 18-6-2012.

Applicant : Smt. Sahajadi Sheikh Hanif (Dead)
Substituted by legal heir, Sheikh Ibrahim
Sheikh Hanif
R/o. At & Post: Chikla, Tahsil Tumsar,
Distt. Bhandara (Maharashtra)

Versus

Opposite Party : The General Manager (P),
M.O.I.L., 3 Mount Extension,
PO Box no. 34, Nagpur- 440001.

AWARD

(Dated: 18th June, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of M.O.I.L. and the applicant, Smt. Sahajadi Hanif, for adjudication, as per letter No.L-29012/49/2003-IR (M) dated 06-02-2004, with the following schedule:—

“Whether the demand of Smt. Sahajadi Hanif seeking compassionate/dependent employment from

M/s. Manganese Ore (India) Ltd., Nagpur consequent upon the death of her elder son Shri Sheikh Mohd. Hanif, a contract worker, in a truck accident on 20/12/1995 in the course of employment at the Dongribuzurg Mine of M/s. Manganese Ore (India) Ltd., is justified? If not, to what relief is the applicant is entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement, in response to which, the applicant, Smt. Sahajadi ("the applicant" in short), filed the statement of claim and the management of the Manganese Ore India Limited, ("Opposite party" in short) filed its written statement.

3. The case of the applicant as projected in the statement of claim was that her son, Abid Sheikh Hanif met with an accident, while in service with the opposite party and expired on 20-12-1995 and she made application to the opposite party to absorb the brother of his deceased son, on compassionate ground in the year 1996, but opposite party did not respond. The further case of the applicant was that her deceased son, Abid was working as piece rated truck cleaner with the opposite party at Dongri Buzurg Mines and while on duty, Abid met with an accident at Dongri mines and succumbed to death on 20-12-1995 and her deceased son was the only earning member of the family and though she made several representations to the opposite party, for compensation and absorbing her another son on compassionate ground, there was no response from the side of the opposite party and inspite of her approaches, pension and gratuity were also not paid and after running from post to pillar and filing of claim under the Motor Accident Claim Act, she received compensation of Rs. 80,000 on 09-03-1999 and as no employment was given to her she made another son, representation on 27-09-2000 to the opposite party mentioning therein that other similarly placed persons had received compensation as well as employment and requested to give employment to her another son and on 12-01-2001, the opposite party gave their reply stating that compensation of Rs. 80,000 was given to her and as per employment is concerned, the same is only applicable to the employees of the company and not for the employees of the contractors and as compensation was paid to her by the opposite party, it can be held that her deceased son was an employee of the opposite party and Narayan Shendre, son of Smt. Yenabai Shendre and Goonanbai Kumbre, W/o—Balakram Jholla Kumbre were given employment on 24-12-1997 and within 5 to 6 months of 27-03-1997 respectively and inspite of issuing of repeated reminders by her, opposite party did not take any action, so, she approached the Hon'ble High Court and the Hon'ble High Court by order dated on 07-07-2003 directed to re-open the proceedings and to complete the conciliation proceedings expeditiously and for making the reference in accordance with law.

The applicant had prayed to grant employment to her another son and to grant her retirement benefits.

It is necessary to mention here that during the pendency of the reference, the applicant expired and her legal heir, Sheikh Ibrahim Sheikh Hanif was substituted in her place as per orders dated 01-09-2010.

4. The opposite party in the written statement has pleaded inter-alia that the deceased son of the applicant, Sheikh Abid S/o Mohd. Hanif was never employed by it and he was employed by the contractor, M/s. K.L. Maheswar of Odisha State on 14-12-1995 for his work, at Dongri Buzurg Mines on temporary basis and deceased Ibid was working as a helper in a truck and on 20-12-1995, Ibid died due to the truck accident, during the course of his employment with the contractor and the representations of the applicant could not be considered, for the reason that deceased Ibid was employed with the contractor and was not in its regular employment and on the death of Ibid, the contractor paid a sum of Rs. 5000 in cash to the families of the deceased immediately and the representations for providing employment to another son of the applicant on compassionate ground were not considered by it, as because, as per the settlement dated 21-06-1984, employment to the dependent of the deceased could be given to the regular employee of the company and not to the employee employed with the contractor and there was no scheme for providing pension and gratuity to an employee employed with a contractor and as such, the demand made by the applicant was not proper and compensation of Rs. 80,000 was paid to the applicant and her husband through Motor Accident Claim Tribunal, Bhandara and the applicant through "Bhartiya Manganese Mazdoor Sangh, Chikla" raised an industrial dispute before ALC (C), Nagpur on 26-11-2001 and it had participated in the proceedings and filed comments and the same resulted in failure and the Ministry of Labour vide its communication dated 10-12-2002 refused to refer the dispute for adjudication and the compensation of Rs. 80,000 was paid under Motor Vehicle Accident claim and not by it and as regard the claim of granting compassionate appointment to the son of Smt. Yenabai Shendre and wife of Balakram Kumbre, who are alleged to be similarly placed is incorrect and employment given to Shri Narayan Sakharam Shendre and Smt. Gunabai was not under compassionate ground, but both of them were directly appointed in the service of the company and the applicant cannot claim parity with them and the statement that Gunabai was paid compensation of Rs. 87,028 is absolutely incorrect and the Hon'ble High Court taking a sympathetic view of the matter remanded the matter to the ALC (C), Nagpur and the applicant is not entitled to any relief.

5. It is necessary to mention here that inspite of giving of number of opportunities to the applicant to adduce evidence, in support of her claim, neither she appeared in the case nor adduced any evidence. Likewise, after the substitution of Sheikh Ibrahim Sheikh Hanif, he was given sufficient opportunity to adduce evidence in support of the claim, but he also neither appeared in the case nor adduced any evidence. Hence, as per order dated 14-7-2011, evidence from the side of the applicant was closed.

6. The evidence of witness, Nitin Yeshwant Pagnis on affidavit adduced on behalf of the opposite party remained unchallenged, as none appeared on behalf of the applicant to cross-examine him. As per order dated 05.03.2012, "no cross" order was passed and the case was closed and the same was posted for award.

7. It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced, the party invoking the jurisdiction must fail.

In this case, though the applicant has claimed that deceased Abid Sheikh Hanif was working with the opposite party and he died in an accident at Dongri mines, while on duty, no evidence has been adduced in support of such claim. The applicant has also failed to adduce any legal evidence in support of his other claims. On the other hand, on perusal of the materials on record including the unchallenged evidence of the witness examined on behalf of the opposite party, it is found that deceased Abid was employed by a contractor as a truck helper and he died on 20-12-1995 due to accident of the truck and compensation of Rs. 80,000 was paid to him by the order of the Motor Accident Claim Tribunal and not by the opposite party. Applying the settled principles as mentioned above to the present case at hand, it is found that the other son of the applicant is not entitled for compassionate employment. Hence, it is ordered:-

ORDER

The demand of Smt. Sahajadi Sheikh Hanif seeking compassionate/dependent employment from M/s. Manganese Ore (India) Limited, Nagpur consequent upon the death of her elder son, Abid Sheikh Hanif, a contract worker, in a truck accident on 20-12-1995 is unjustified. The applicant is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 11 जुलाई, 2012

का.आ. 2538.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयर इण्डिया लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, नई दिल्ली के पंचाट (आईडी संख्या 76/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-07-2012 को प्राप्त हुआ था।

[सं. एल-11012/8/2002-आईआर (सीएम-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 11th July, 2012

S.O. 2538.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 76/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the management of M/s. Air India Limited and their workman, received by the Central Government on 11-07-2012.

[No. L-11012/8/2002-IR (CM-I)]

AJEET KUMAR, Section Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL No. 1,
KARKARDOOMA COURTS COMPLEX : DELHI**

I.D.No.76/2011

Shri Mahesh Chander Sahdev,
S/o Sh.Dharamvir Sahdev,
P-43, South Extension-II,
New Delhi-110049

...Workman

Versus

M/s. Air India Limited,
Northern India,
Connaught Place,
New Delhi.

...Management

AWARD

When Air India and Indian Airlines were separate legal entities, there was an agreement between the two airlines to provide interline complementary tickets for certain categories of officers, whose names were mentioned in Reciprocal List. When a request was received by the airlines for providing transportation facility to an employee of either airlines, particulars of such an employee were to be verified from Reciprocal List by the concerned staff of the airlines, providing transportation facility. After ascertaining name of the employee from Reciprocal List provided by the airlines, his entitlement was to be checked for class of travel, to be decided in accordance with the category of staff, besides purpose of travel for himself and different members of his family.

2. Shri Mahesh Chander Sahadev was working as Clerk in the office of Manager, Northern India, Air India Ltd., New Delhi. In that capacity, he was required to process requests for interline complimentary tickets. He processed interline requests received from Indian Airlines on reciprocal basis in the name of Shri Umesh Bhatia, Ms. Sonu Shaskar, Shri Sandeep Kumar, Shri Vijay Kumar, Shri R.L. Moria, Ms. Anita Moria and Ms. Rakhi Moria, though their names were not reflected in Reciprocal List furnished by the Indian Airlines. He got authority approved in favour of

above persons, without following laid down procedure in that regard. When above facts came to light, charge sheet was served upon him on 15-04-1993. A domestic enquiry was conducted against the claimant. Punishment of 'dismissal' was awarded to him on 26-04-1999. An appeal was preferred by the claimant, which came to be dismissed vide order dated 19-01-2000. Feeling aggrieved by the action of the management, he raised an industrial dispute before the Conciliation Officer. Since conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication vide order No.L-11012/8/2002-IR(C1), New Delhi dated 17-07-2002 with the following terms.

“क्या एअर इंडिया लिमिटेड नई दिल्ली के प्रबंधन द्वारा श्री महेश चन्द्र सहदेव, वरिष्ठ कार्यालय सहायक की सेवाएं दिनांक 26-6-99 से बर्खास्त किया जाना विधिवत न्यायसंगत एवं उचित है? यदि नहीं तो कर्मकार किस राहत के पात्र हैं?

3. Claim statement was filed by Shri Mahesh Chand Sahdev pleading therein that he joined services with Air India Ltd. (hereinafter referred to as the Airlines) on 18-12-1977 as cleaner. His devotion to duty made him to be promoted to the post of clerk in 1978. Lastly, he was working as Senior Office Assistant with the Airlines. On 10-03-1993, one Shri Umesh Bhatia and his wife, namely Smt-Sonu Shaskar were apprehended at IGI Airport, New Delhi, while traveling to Singapore on free complementary tickets issued in an illegal manner by one Shri Arun Vohra, Office Assistant. On 15-04-1993, the claimant was charge sheeted alleging therein that he did not exercise due care and caution while processing application of one Shri R.L. Moria, an employee of Indian Airlines, who made a request for issuance of free interline ticket for his daughter in law, whose name did not figure in Reciprocal List. According to him, genesis of disciplinary action against him lies in enquiry conducted by CBI into allegations of misuse of interline complimentary tickets.

4. The claimant projects that interline tickets were issued on sanction orders given by Shri N.N. O'Connor, Shri Baldev Kumar and Ms.Gyan Clair, under whom he was working at relevant time. In its inquiry, CBI had specifically named them as persons who acted in tandem with each other and recommended action against them. However, no action was initiated against them by the Airlines. On the other hand, Shri O'Connor was allowed to retire voluntarily and Ms. Gyan Clair was given a lucrative foreign posting at Amsterdam. The Airlines issued circular dated 11-01-1997 and permitted daughter-in-law and son-in-law of employees to travel on interline complimentary tickets. Another circular was issued on 26-03-1997 and brother-in-law, brother and sister of employees were permitted to travel on interline complimentary tickets. Therefore, availing interline tickets for one's daughter-in-law, son-in-law, brother-in-law, brother and sister no longer remains a misconduct.

5. An enquiry was conducted against Shri R.L. Moria, wherein it was established that he had not submitted any misleading application. When Shri Moria had not submitted any misleading application, the only charge which remains against the claimant is that he failed to exercise due care and to detect discrepancy that Shri Moria has described himself as Finance Manager of the Indian Airlines. He went on to detail that the charge sheet was served upon him in 1993 and till 27-02-1997, no adverse report was submitted. The Airlines had promoted him as Senior Office Assistant, which act operates as condonation of misconduct, if any, committed by him. He claims that in February 1999, the Airlines wanted him to depose against Shri R.L. Moria in he domestic enquiry. Since he insisted to tell only the truth, he was dropped from the enquiry and was not produced for further cross examination in the enquiry, conducted against Shri Moria. Thereafter, dismissal order was passed in a vindictive manner. He claimed that the enquiry was an eye wash, since relevant documents were neither shown to him not given to him. Charges were neither tenable nor proved in the enquiry. Show cause notice was received by him on 03-10-1997 and he made his representation on 12-11-1997. Dismissal order was passed on 19-11-1998 but was not communicated to him till 26-04-1999. He preferred an appeal on 14-10-1999, which was rejected on 19-01-2000. He claims that the order of his dismissal is illegal, arbitrary, malafide, discriminatory, motivated and stark example of victimization. He seeks reinstatement in service of the Airlines with continuity and full back wages.

6. The Airlines made a demurral pleading that the claimant, who was required to process requests of interline complimentary tickets, processed interline requests from Indian Airlines on reciprocal basis in the names of Shri Umesh Bhatia, Ms.Sonu Shaskar, Shri Sandeep Kumar, Shri Vijay Kumar, Shri R.L Moria, Ms.Anita Moria and Ms.Rakhi Moria. Names of above persons were not reflected in Reciprocal List, furnished by the Indian Airlines. The claimant did not verify their names from Reciprocal List available to him and got authority approved in favour of above persons, without following laid down procedure. The claimant had processed requests for interline complimentary tickets in favour of above persons, who were not entitled for the same.

7. Startling facts are that the claimant was well aware that Shri R.L. Moria was working as Store Superintendent with the Indian Airlines and got authority approved in his favour and his family members representing him as Finance Manager on Reciprocal List. He fraudulently got tickets processed in their favour and delivered the same personally at the residence of Shri Moria. The claimant was well aware that Shri Sandeep Kumar was son of Shri R.L. Moria but he processed authority in favour of Shri Sandeep Kumar projecting him to be son of Shri R. Kumar, Deputy Operation Manager. He processed authority in favour of Ms.Sonu Shaskar and Shri Umesh Bhatia, daughter and son of Capt.

K.S. Shaskar and Capt. S. Bhatia respectively, though their names did not appear in Reciprocal List.

8. The Airlines nowhere disputes factum of appointment of the claimant as cleaner on 18-12-1973- It has been projected that he was confirmed in service with effect from 01-07-1974. His promotion as clerk and Senior Office Assistant are also not a matter of dispute. His promotion, during enquiry process, shows that the Airlines was acting in a bonafide manner. The act of his promotion nowhere condones his misconduct. The Airlines never condoned his misconduct and his promotion as Senior Office Assistant cannot come in the way of taking disciplinary action to its logical conclusion.

9. The Airlines projected that the claimant as well as Shri Moria were well aware that names of Shri R.L Moria, Ms. Anita Moria, Ms. Rakhi Moria and Shri Sandeep Kumar do not appear in Reciprocal List. They were not entitled to complimentary tickets. It has been denied that major penalty proceedings were recommended by CBI against Ms. Gyan Clair. It has wrongly been projected by the claimant that in the enquiry against Shri Moria, it was established that he did not submit any application for issuance of complimentary ticket, pleads the Airlines.

10. Enquiry was held against the claimant in consonance with the principles of natural justice. Enquiry proceedings were held on 14 occasions which spread from 06-08-1993 to 22-02-1996. The claimant duly participated in the enquiry and was defended by a defence representative of his choice. The claimant did not produce any defence witness- However, he submitted final submissions on 22-02-1996. To enable him to explain facts recorded in the enquiry report, he was given an opportunity by the Disciplinary Authority vide letter dated 05-03-1997. He sought some more time and finally submitted his reply on 05-04-1997. Considering the gravity of misconduct, the competent authority proposed to impose punishment of dismissal from service and the claimant was afforded opportunity to show cause as to why such punishment should not be imposed. He sought extension of time in that regard. In the meanwhile, in view of applicability of certified standing order, the claimant was once again called upon to show cause as to why punishment of dismissal should not be awarded to him. Vide letter dated 23-04-1998, he sought copy of certified standing order, which was sent to him alongwith letter dated 01-05-1998. He again sought time of 15 days on the strength of his letter dated 01-06-1998. Vide letter dated 15-06-1998, 2 days more time was given to him. Thereafter, punishment of dismissal was passed, which was communicated to him vide letter dated 26-04-1999. Punishment awarded to him was in accordance with the principles of natural justice. The claimant is not entitled to any relief. His claim may be dismissed, being devoid of merits.

11. On pleadings of the parties, following issues were settled by my learned predecessor:

- (1) Whether the enquiry conducted by the management was fair and proper?
- (2) Whether the charge sheeted employee was solely responsible for issuance of interline tickets to the persons named in the charge sheet? If so, its effects
- (3) Whether the Reciprocal List was up to date, as claimed by the management?
- (4) Whether any discrimination has been purported by the management against the workman, as alleged in para 7 of the claim statement? If so, its effects.
- (5) As per reference.

12. On appreciation of evidence of Ms. Meenakshi Dua and the claimant and on consideration of submissions of authorised representatives of the parties, issue No.1, which was treated as preliminary issue, was answered in favour of the Airlines and against the claimant vide order dated 13-06-2011.

13. Arguments were heard at the bar. Ms. Deepa Rai, authorised representative, advanced arguments on behalf of the claimant. Shri V.P. Gaur, authorised representative, advanced arguments on behalf of the Airlines. I have given my careful consideration to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows :

Issue No.2.

14. As projected above, domestic enquiry conducted against the claimant was found not to be violative of the principles of natural justice. Therefore, it is evident that this Tribunal concluded that the Airlines could establish that the findings of misconduct was a plausible conclusion coming out of evidence adduced during the course of enquiry. When such a situation has been established, the Tribunal had no jurisdiction to sit in judgement over the decision of the Airlines as appellate body. However, the Tribunal would be justified in interfering with the decision of the employer when the findings arrived at in the domestic enquiry are held to be perverse or the Airlines is found to be guilty of victimization, unfair labour practice or malafide. When findings recorded by the Enquiry Officer are not held to be perverse or case of victimization, unfair labour practice or malafide is not projected, it would be beyond the pale of jurisdiction of the Tribunal to interfere with the managerial function. It would not be out of place to mention here that findings of the Enquiry Committee were held to be in accordance with the evidence and not opposed to the whole body of evidence adduced before it.

15. The expression 'victimization' has not been defined by the Industrial Disputes Act, 1947 (in short the Act). The word 'victimization' is not in any sense a term of

law. Ordinary meaning of the word is that the person has become a victim, in other words, that he has been unjustly dealt with. In *Bharat Bank Ltd.* [1950 (I) LLJ 921] it was agitated before the Apex Court that the expression 'victimization' has acquired a special meaning in industrial law and connotes a person who has become a victim of the employer's wrath by reason of his trade union activities and that the word could not relate to a person who has been merely unjustly dismissed. However in view of peculiar facts and circumstances of that case, above submissions were not considered by the Court.

16. In *Williamson Magor and Co. Ltd.* [1982 (I) LLJ 33], the Apex Court made interpretation of the word ('victim' as a person who is "victim of unfair and arbitrary action". The concept of victimization has acquired considerable significance in the area of disciplinary action, in the context of industrial law. Broadly speaking, the expression "victimization" means one of the two things: (1) where the workman concerned is innocent and yet he is being punished because he has in some way displeased his employer, for example, by being an active member of a trade union of workmen, who are acting prejudicial to the interest of their employer, and (2) where the employer terminates the services of the workman for refusal to carry out some work which is not part of his duty. Victimization may partake of various forms. For instance, if for a very trivial or venial breach of duty, the employer proposes to dismiss the workman, or he pressurizes the employee to leave the union or union activities and on his failure to do so, for that sole reason he inflicts gross punishment on the employee which no rational person would impose, or he punishes the employee for a wrong which someone else has committed. Victimization is a serious charge made by an employee and onus lies on him to establish it.

17. Unfair labour practice on the part of the employers, trade unions of the employers, workmen and trade unions of the workmen are detailed in the Fifth Schedule appended to the Act. Malafide is opposed to bonafide. Malafide would include a colourable exercise of power, that is, an exercise of power which is ostensibly so, but which is really a pretext with the ulterior objective or for achieving some other end. But it is for the party alleging malafide to establish that element as a reasonable inference, on facts and probabilities shown to exist. A mere allegation of malafide will not do and the Tribunal has to take notice of the increasing trend to allege malafide, sometimes with little or no substance.

18. Now it would be considered as to whether without being sole responsible to issue interline tickets, the claimant had been victimized or the Airlines practiced unfair labour practice or acted in a malafide manner. When turned to facts, it came to light that in his claim statement, the claimant projects that tickets were issued on authority being approved by Shri N.N. O'Connor, Shri Baldev Kumar and Ms. Gyan Clair, under whom he was working. These facts highlight that the claimant wants to assert that he had

processed requests and got authorities approved from the aforesaid officers. In its report, the Enquiry Committee concluded that the claimant was well aware that Shri M.L. Moria was working as Store Superintendent while his request was processed projecting him to be Finance Manager on Reciprocal List. It has also come over record that Shri Sandeep Kumar was well known to the claimant. It was within his knowledge that Shri Sandeep Kumar was son of Shri R.L. Moria while he processed request for issuance of interline complimentary ticket in his favour projecting him to be son of Capt. R. Kumar. Out of these facts, it stood established that the claimant acted with dishonest intention to defraud not only his superiors but the Airlines also. In the light of these facts, it is apparent that he acted with guilty intention and processed requests for issuance of interline complementary tickets. He got approved authority in favour of Shri R.L. Moria, Ms. Anita Moria, Ms. Rakhi Moria, Shri Sandeep Kumar, Shri Umesh Bhatia, Shri Vijay Kumar and Ms. Sonu Shaskar knowing well that their names were not there in Reciprocal List.

19. Much hue and cry has been raised by the claimant that it was Shri N.N. O'Connor, Shri Baldev Kumar and Ms. Gyan Clair who approved authority for issuance of tickets in favour of the persons, referred above. Whether that very fact would bring acts of the aforesaid officials within the arena of misconduct? For an answer to this proposition it would be appropriate to know as to what term 'misconduct' means. The concept of misconduct is a general concept and is not related to relationship of master and servant only. The dictionary meaning of the word 'misconduct' are: "improper behaviour, intentional wrong doing or deliberate violation of a rule of standard of behaviour. "Misconduct is a transgression of some established and definite rule of action, where no discretion is left except what necessity may demand: it is violation of definite law, a forbidden act and differs from carelessness. It comprises of positive acts and not mere neglect or failure.

20. Under Indian Penal Code and other special and local laws some acts or omissions are offences for which a person can be punished by the sovereign power of the State. These offences or acts are considered to be prejudicial to the interest of the society in general and, therefore, they are prohibited by law. There are, however, various other organizations such as professional bodies, educational institutions, clubs, corporations etc. and anyone who wants to be admitted to such bodies, by being member or otherwise, is also required to act under certain rules and remain subject to certain discipline. If he does anything in violation of rules, regulations, or any law inconsistent with his position as a member of that society, then he is liable to lose advantage and facilities of the association with that society or organization. Any such act is, therefore, generally called misconduct. Primary meaning of the word 'misconduct' is bad management, mis-management and malfeasance or culpable neglect of an official in regard to

his office. Both in law and in ordinary parlance, the term misconduct usually implies an act done willfully with a wrong intention and as applied to professional acts, even though such acts are not inherently wrongful, it means also dereliction of or deviation from duty. Even assuming that a particular act is negligence and not misconduct, such a negligence which amounts to dereliction of or deviation from duty cannot be excused. See *In re:-Mehboob Alikhan* (AIR 1958 AP 116).

21. In *N.M. Roshan Umar Karim and Co.* (AIR 1936 Mad.508) following three different meaning of the word 'misconduct' were given:

- "(a) Misconduct is not established by proving even culpable negligence. It is something opposed to accident or negligence and is doing of something which the doer knows to be wrong or which he does recklessly not caring what the result would be.
- (b) Misconduct is distinguished from accident and is not far from negligence - not only gross and culpable negligence and involves that a person misconducts himself when it is wrong conduct on his part, in the existing circumstances to do or to fail or omit to do a particular thing or to persist in the act, failure or omission or acting with carelessness. It is incorrect that a misconduct only refers to acts of gross or culpable negligence and not mere negligence.
- (c) Misconduct does not ordinarily covers acts of negligence. The test of misconduct is not what a reasonable man would have done in the circumstances. It means that servant is guilty of something which was inconsistent with the conduct expected of him by the rules of the company".

Above three meanings were quoted by the Apex Court with approval in *Shiv Nath* (AIR 1965 SC 1666).

22. Whether mere negligence is a misconduct or not will depend upon the nature of negligence and the requirement of care which the employee was obliged to use on the nature of services he was expected to perform. Misconduct could be of three kinds:

- (i) technical misconduct which leaves no trail of indiscipline,
- (ii) misconduct resulting in damage to the employer's property which might be compensated by forfeiture of gratuity or part thereof, and
- (iii) serious misconduct such as acts of violence against the management or other employee or riotous or disorderly behaviour in or near the place of employment, which though not directly causing

damage, is conducive to grave indiscipline.

23. In *Ram Singh* (1992 Lab. IC 2391) the Apex Court observed that though the expression "misconduct" is "not capable of precise definition, its dereliction receives its connotation from the context, the delinquency in its performance and its effect on the discipline and the nature of duty. It may involve moral turpitude, it must be improper or wrong behaviour, unlawful behaviour, willful in character, forbidden act, a transgression of established and definite rule of action or code of conduct but not mere error of judgement, carelessness or negligence in performance of duty, the act complained of bears forbidden quality or character. Its ambit has to be construed with reference to the subject matter and the context wherein the term occurs, regard being had to the scope of the statute and the public purpose it seeks to serve."

24. In industrial law, the word 'misconduct' has acquired a specific connotation. In *Shalimar Rope Works Ltd.* (1953 L.A.C. 584) the Labour Appellate Tribunal laid down the criteria for determination as to whether an act would be misconduct, viz. the act (i) is inconsistent with the fulfillment of the express or implied conditions of service, or (ii) is directly linked with the general relationship of employer and employee or (iii) has a direct connection with the contentment or comfort of the men at work, or (iv) has a material bearing, on the smooth and efficient working of the concern. If the answer to any of these criteria is in affirmative, the action in question would amount to an act of misconduct. In industrial law, there two kinds of misconduct, namely; (I) gross or major misconduct which justify punishment of dismissal or discharge, and (II) minor misconduct which do not justify punishment of dismissal or discharge but may call for lesser punishment. See also *Caltex India Ltd.* [1966 (2) LLJ 137].

25. With above prelude in mind, it would be considered as to whether *Shri N.N.O'connor*, *Shri Baldev Kumar* and *Ms.Gyan Clair* also acted with guilty intention? Whether they were well aware that names of the persons, in whose favour they approved authority, were not there in Reciprocal List? It was the claimant who was to receive requests, process it and to get authority approved from his superiors. For approval of the authority, he was supposed to see names in Reciprocal List. Thus, it is emerging over record that at the initial stage, the claimant was to initiate action in the matter and to present facts before his superiors, favouring approval of request or for getting it rejected. Admittedly, the claimant processed requests of the aforesaid persons and presented it before his superiors for approval. Before approval of requests, the officers were not required to see Reciprocal List, but to act upon the judgment of their subordinate. It is not the case that they connived with the claimant. On the other hand, they relied the claimant and reposed confidence in him. The claimant breached their confidence. Their action of placing reliance on acts of the claimant may project them to be negligent.

But mere negligence on their part would not bring their culpability over the record. It was their error of judgment regarding reliability of their subordinate, which error would not fall within the ambit of misconduct.

26. Shri N.N. O'Connor, Shri Baldev Kumar and Ms. Gyan Clair approved authority for issuance of tickets in favour of the persons referred above, in a negligent manner. Care and attention required on their part was of lesser degree, since they were not supposed to initiate those requests and see Reciprocal List. When a superior acts in a bona fide manner on recommendations of his junior, who was supposed to assist the former, it can be said that he exercised due care and attention in discharge of his duties, unless it is shown that he was also a party to the illegal act. No evidence worth name was brought before the Enquiry Committee to raise an accusing finger on Shri N.N. O'Connor, Shri Baldev Kumar and Ms. Gyan Clair. Consequently, it cannot be said that they also connived with the claimant and were parity to the episode of issuance of interline complimentary tickets, in violation of settled procedure.

27. In view of above reasons it is concluded that it was the claimant alone who violated settled procedure for issuance of interline complementary tickets to above persons. No evidence is there to show that the Airlines had made him a scapegoat and thus victimized him. No evidence is there on record to give even an inference that the Airlines practised unfair labour practice or proceeded against the claimant with mala fide intention. The issue is, therefore, answered in favour of the Airlines and against the claimant.

Issue No. 3

28. Much hue and cry has been made on behalf of the claimant to the effect that Reciprocal List was incomplete. In order to project his point of view, reliance has been placed on facts unfolded by Ms. Gyan Clair before the Enquiry Committee. However, when facts unfolded by Ms. Gyan Clair are scrutinized, it came to light that there is no substance in the contention advanced by the claimant in that regard. She highlighted in her testimony dated 21-11-1995 that Reciprocal List was complete in all respect. There was an admission on her part to the effect that Reciprocal List did not contain names of retired employees even prior to or after 1986. She explained that as far as requests received in favour of the aforesaid persons for issuance of interline complimentary tickets were concerned, the claimant had not processed those requests in accordance with the well laid procedure. She further explains that on 15-3-1993, she wrote a letter asking for an updated list. From her explanation, it emerges over the record that Reciprocal List was complete in respect of employees who were in service of the Indian Airlines. In Reciprocal List, names of retired employees were not there. Since the claimant processed requests of the aforesaid persons for issuance of interline complimentary tickets, without their

name being in the Reciprocal List, Ms. Clair demanded an upto date list vide letter dated 15-03-1993. That demand made by Ms. Gyan Clair nowhere make it a case that Reciprocal List was incomplete, as far as employees who were in service of the Indian Airlines were concerned. Even otherwise, the claimant processed requests in favour of Shri R.L. Moria and his family members knowing well that Shri Moria was Store Superintendent and his name was not there in Reciprocal List. He projected him as Finance Manager, while Shri Sandeep Kumar was shown as son of Capt. R. Kumar. Therefore, these facts make it clear that the claimant had intentionally processed requests with guilty intention, without looking in Reciprocal List at all. The issue that Reciprocal List was not upto date was raised by the claimant only with an idea to confuse the matter. Accordingly, issue is answered in favour of the Airlines and against the claimant.

Issue No. 4

29. As projected by the claimant, Shri N.N. O'Connor, Shri Baldev Kumar and Ms. Gyan Clair were Officers who had approved authority in favour of the persons, referred above, for issuance of interline complimentary tickets. His case has been that he was not the sole person responsible for issuance of tickets. However, it is not a disputed fact that requests were processed by the claimant. He got authority approved in favour of above persons from his superiors. At the cost of repetition, it is pointed out that Shri R.L. Moria was Store Superintendent while his request was processed projecting him to be Finance Manager. Shri Sandeep Kumar happens to be son of Shri R.L. Moria, while his case was processed as son of Capt. R. Kumar. It is not a disputed fact that Shri Moria and Shri Sandeep Kumar were personally known to the claimant. The claimant nowhere disputes that he personally delivered tickets at the residence of Shri Moria. These facts make it crystal clear that the claimant acted with guilty intention and processed requests of the aforesaid persons and got authority approved from his superiors.

30. An act done willfully with a wrong intention would amount to misconduct. Intention can be said to consciously or willfully or deliberately doing an act which it is known or foreseen or appreciated or realized, will as a probable, perhaps highly probable, perhaps morally certain, consequence, expose the victim to the risk of peril of death or grievous bodily harm, even though the actor may not wish or desire the result to ensue, may be certain that it will ensue, or may have wanton disregard or indifference as to whether it will or not. Intention involves foresight or knowledge of the probable or likely consequences of injury, plus the desire or purpose or object or end to do an act which will bring those consequences about. Foresight or knowledge of the probable or likely consequences does not or may not, itself suffice to constitute intention, but it is naturally very strong evidence of such an intention. Foresight or knowledge is the best basis to find the

requisite intention proved and this must normally be expected to follow.

31. "Good faith" plays an important part in law of crimes and its presence is ordinarily a sufficient answer to a charge of criminality in many cases. Good faith is defined in positive aspect by section 3(22) of the General Clauses Act, 1897, which definition is extracted thus:

"3. (22) A thing shall be deemed to be done in 'good faith' where it is in fact done honestly, whether it is done negligently or not".

Element of honesty, introduced by the above definition, is not present in the definition given in the Penal Code. Negative definition of the phrase is given in section 52 of the Penal Code, which runs thus:

"52. Nothing is said to be done or believed in 'good faith' which is done or believed without care and attention".

32. As defined by the Penal Code, definition of phrase 'good faith' has no reference to the moral element of honesty and right motive which are involved in popular significance of 'good faith', defined by General Clauses Act. To establish good faith under the penal law, it is necessary to prove that the person pleading good faith acted with due care and attention and an honest blunder cannot be protected, without establishing the exercise of due care and attention. The plea of good faith may be negated on the ground of recklessness indicative of want of due care and attention if the imputation in question, have been made as categorical statements of facts. However law does not exact the same degree of care and attention from all persons. It varies with the position they occupy. In this sense, the question of 'good faith' is always question of fact to be determined in accordance with the proved facts and circumstances of each case.

33. The 'due' care required must depend upon the nature of the act, its magnitude and importance and the facility a person has for the exercise of care and attention. It does not constitute 'good faith' necessarily because the person making the imputation believed it to be true. Due care and attention imply a genuine effort to reach the truth, and not the ready acceptance of an ill natured belief. A surgeon working in his surgery would be judged by a different standard from that applicable to a surgeon in the field. But where a quack unskilled in surgery performs an operation which even a trained surgeon seldom dares, he cannot be accredited with good faith, if his patient trusting him succumbs to his operation.

34. The circumstances that operate on the exercise of care and attention are so varied and variable that it is not possible to fix a general standard by which the presence or absence of 'good faith' may, in any case, be tested. But at the same time, in such cases, it is always permissible to argue ex post facto; that is to say, it may be shown that

there was a want of 'good faith' because there was absence of the requisite care and caution. On the other hand, a person relying upon 'good faith' may show that he had taken the necessary care and caution, and that, therefore, his act was done in good faith. As observed by the Law Commission in its First Report:

"He will be required to prove that his conduct was such as to lead fairly to the inference that he acted in good faith as alleged. It is true that he cannot prove directly what was in his mind, but he may be able to prove facts by which this may be sufficiently manifested". To satisfy the Court of his good faith, he must show at least that he acted advisedly and that he had reasonable ground prima facie for believing that he ought to do what he did.

35. In order to establish belief in good faith, a person's simple belief in good faith that circumstances are such and such, ought not to be sufficient: there ought to be sufficiently strong and just ground for his belief. Belief must have a foundation and that must be shown. Where a person acts with thoughtless precipitancy, without making sufficient inquiries and jumping to a conclusion upon materials wholly unjustifiable, it cannot be said that he had exercised good faith.

36. As a person, acting in good faith, is excepted from criminality, presence of good faith in each case must depend upon the circumstances which alone entitle a person to exemption from criminal responsibility. The burden lies on the delinquent to prove that he acted with good faith. The question of good faith must be considered with reference to the position of the delinquent and the circumstances under which he acted. The law does not exact the same care and attention from all persons regardless of the position they occupy. With this prelude in mind, now I will proceed to ascertain whether due care and attention was exercised by Shri N.N.O'Conner, Shri Baldev Kumar and Ms.Gyan Clair.

37. As facts of the controversy bring it over the record, the claimant processed requests of the aforesaid persons for issuance of interline complimentary tickets and got authority approved from his superiors. He had not seen Reciprocal List when requests were processed by him. His guilty intention was established to the hilt. His superiors were to act when he presented those requests before them. They had to act in accordance with recommendations made by the claimant. They relied on the claimant and accorded approval for issuance of interline complimentary tickets. Circumstances suggest that it may be a case of honest blunder on the part of N.N. O'Connor, Shri Baldev Kumar and Ms. Gyan Clair, when they acted advisedly and believed their subordinate. In such a situation, degree of care and attention which was expected to them was lesser than that which was required from the claimant. When they were supposed to believe the claimant and they had reasonable grounds prima facie believing the

claimant, it cannot be said that in believing the claimant, they failed to exercise due care and attention. Under these circumstances, it does not emerge that any misconduct was committed by Shri N.N. O'Connor, Shri Baldev Kumar and Ms. Gyan Clair when they acted upon facts presented before them by the claimant. Consequently, the Airlines was not required to proceed against them for departmental action. The claimant cannot assert that the Airlines had discriminated him. The issue is, therefore, answered in favour of the Airlines and against the claimant.

Issue No. 5.

38. To see whether punishment awarded to the claimant is shockingly disproportionate to his misconduct facts are to be scanned again. Charge sheet dated 15-4-1993 projects that interline requests were received from the Indian Airlines for the staff against Reciprocal List, which requests were received, processed and got approved by the claimant in favour of the following persons:

Name	Ticket No.
Shri Umesh Bhatia	098/4413661829
Ms. Sonu Bhaskar	098/4413661830
Shri Sandeep Kumar	098/4413669000
Shri Vijay Kumar	098/4413669001
Shri RL Moria	098/4413669003
Ms. Anita Moria	098/4413669004
Ms. Rakhi Moria	098/4413669005

39. Subsequently, it revealed that above names do not appear in Reciprocal List received from the Indian Airlines. Without checking Reciprocal List, the claimant got the authority approved without following laid down procedure. In his reply dated 2-4-1993, the claimant conceded that he knew Shri R.L. Moria and Shri Sandeep Kumar son of Shri Moria personally. Despite his personal knowledge that Shri Moria was working as Store Superintendent in the Indian Airlines, he got authority approved in his favour and his family members, projecting him to be Finance Manager on Reciprocal List. He got above tickets issued in favour of Shri Moria and his family members fraudulently and delivered tickets at the residence of Shri Moria.

40. The claimant failed to check Reciprocal List in respect of Ms. Sonu Shaskar and Shri Umesh Bhatia, daughter and son of Shri K.N. Shaskar and Capt. S. Bhatia respectively, whose names were not there in Reciprocal List. He got authority approved in favour of Shri Sandeep Kumar as son of Capt. R. Kumar whereas he was well aware that Shri Sandeep Kumar was son of Shri R.L. Moria.

41. In his reply, the claimant admitted that he got tickets issued, bookings made and validation stickers affixed before delivery of tickets to Shri Sandeep Kumar at the residence of Shri Moria. As per charge sheet, above acts on his part, if proved, constitute misconduct of fraud or dishonesty in connection with his employer's business,

acts subversive of discipline and good behaviour and neglect of work.

42. From analysis of evidence produced, the Enquiry Committee reached conclusions, which are reproduced below:

“(i) Shri M.C Sahdev, Office Assistant, St.No.6167, Commercial Department, New Delhi (charge sheeted employee), who was then dealing with interline request from various Airlines, including the period Jan.93 to March 93, had received, processed and got approved from the competent authority the four interline requests exhibited as E-18 to E-21, which were received from Indian Airlines on Reciprocal List basis against which ticket as follows has been issued :

098/4413661829 in favour of Shri Umesh Bhatia
 098/4413661830 in favour of Ms. Sonu Bhaskar
 098/4413669000 in favour of Shri Sandeep Kumar
 098/4413669001 in favour of Shri Vijay Kumar
 098/4413669003 in favour of Shri RL Moria
 098/4413669004 in favour of Ms. Anita Moria
 098/4413669005 in favour of Ms. Rakhi Moria

(ii) Shri M.C. Sahdev, the charge sheeted employee, personally on the request of Shri Sandeep Kumar, known to him as the son of Shri R.L. Moria" an employee of Indian Airlines and who used to refer to him as 'uncle' got the interline requests approved and tickets issued for him and for Shri Umesh Bhatia and Ms. Sonu Shaskar, from Jeevan Bhatri, got the bookings done for all four, i.e. Shri Umesh Bhatia, Ms. Sonu Shaskar, Shri Sandeep Kumar and Ms. Anita Moria for sector DEL/SIN/BOM/DEL (E 11) on the same flight on the request of Shri Sandeep Kumar that they were all traveling together; prepared in his own handwriting and affixed stickers (E-14 to E-17) from the sticker booklet kept only for emergency use in the M-NI's secretariat, with the PA to CRM-NI, Shri I.J. Bhalla without his (Shri I.J. Bhalla) knowledge and personally delivered the said tickets to the residence of Shri Moria after checking the travel documents on the request of Shri RL Moria, who claimed to be himself busy with some other work and his son having gone somewhere.

(iii) That Shri Sahdev knew Shri Moria personally, as has been admitted by him repeatedly. He had confirmed that he got acquainted with Shri Moria in the year 1973-74 when he was working at the airport.

(iv) It is further confirmed by the self admission of Shri Sahdev that he also knew that

Shri Sandeep Kumar, who used to be sent to his office by Shri K. B. Kumar of Indian Airlines for collection and submission of interline requests, was the son of Shri Moria, who was known to him. Shri Sandeep Kumar had got the interline request approved for himself and his family members two months before this incident, under the reciprocal agreement and the same were approved and handed over to him as confirmed by Shri Sahdev in his reply dated 02-04-93 (E-35). He was, therefore, fully aware that Shri Sandeep Kumar was the son of Shri Moria. However, despite the knowledge of fact, he got approved the authority of Shri Sandeep Kumar and Shri Vijay Kumar as sons of Capt. R Kumar, Deputy Operations Manager, thus indulging in an “act subversive of discipline”.

- (v) That Shri Sahdev, the charge sheeted employee, was therefore fully aware that the person requesting for approval of interline request on reciprocal basis (E-18) who was known to him as the son of Shri Moria could also not be the son of Capt. R Kumar at the same time.
- (vi) Shri M.C. Sahdev was therefore fully aware that the interline request (E-18) was being made under a fictitious name of Capt. R. Kumar, deputy operations manager as father of Shri Sandeep Kumar.
- (vii) Shri M.C. Sahdev, having full knowledge of the above fact, not only got the fictitious airline request (E-18) approved from the competent authority (CRM-NI) but also helped Shri Sandeep Kumar in getting his bookings confirmed on the fraudulent ticket, personally prepared and affixed the stickers on the sticker against authority (E-18) and personally delivered the fraudulent tickets as the residence of Shri R.L. Moria to Shri Sandeep Kumar after checking the documents, which was not the normal practice. That he had checked the documents and found nothing wrong with them further establishes that although the documents, such as passport and visa under the column 'father's name' would have clearly revealed that Shri Sandeep was the son of Shri R.L. Moria and not Capt. R. Kumar and Anita Moria, not the daughter of Shri R.L. Moria, he not only deliberately permitted a loss to Air India, he also indulged in an act of issuance, confirmation and delivery of the fraudulent tickets.
- (viii) As confirmed by exhibit E-32, Ms. Anita Moria and Ms. Rakhi Moria were not the daughters of Shri R.L. Moria. Further, Shri R.L. Moria was not listed on the Reciprocal List (as per E-41, 49 and 46) when his interline request (E-21) showing as Finance Manager was processed by the Shri Sahdev himself. Shri Sahdev did not follow the procedure of checking the Reciprocal List before filling and putting up the authority (E-21) as well as authorities (E-18 to E-20) and getting the same approved from the competent authority. He also did not put up a note to the competent authority informing that the names of employees shown under Exhibits E-18 to E-21 were neither in the latest Reciprocal List of Indian Airlines available with Air India nor did he seek any clarification from Indian Airlines, which he always used to do in case of requests received from Indian Airlines for officials not featuring on the Reciprocal List or cases of discrepancy or suspicion as admitted by Shri Sahdev before the enquiry committee. This negligence on the part of the claimant has led to the issuance of seven Air India tickets on free confirmed basis to Shri Umesh Bhatia, Ms. Sonu Shaskar, Shri Sandeep Kumar, Ms. Anita Moria, Shri R.L. Moria, Rakhi Moria and Mr. Vijay Kumar, to which they were not entitled. This clearly establishes that Shri M.C. Sahdev was negligent in performing the duties assigned to him, thereby indulging in neglect of work.
- (ix) It is admitted by the Mr. Sahdev that when Shri Sandeep Kumar, son of Shri R.L. Moria went to him with the interline requests in favour of himself and his family members (E-18 to E-21), he informed Shri Sahdev that his father had got promoted and become part of Reciprocal List and information would soon be reaching Shri Sahdev in this regard. Despite this knowledge that Shri R.L. Moria is not on the Reciprocal List, Shri Sahdev got his authority (E-21) approved on confirmed basis without confirming his entitlement or details of dependents etc. from Indian Airlines even though he had confirmed that this was the procedure always followed for requests received from Indian Airlines for officials not featuring on the Reciprocal List. This deliberate act of Shri Sahdev resulted in issuance of three tickets on confirmed basis fraudulently to Shri R.L. Moria, who was not entitled for confirmed tickets and to some Ms. Anita Moria and Rakhi Moria, who were shown as daughters of Shri R.L. Moria (E-32) and were therefore not entitled to these tickets and also two tickets to Shri Sandeep Kumar and Sri Vijay shown as sons of Capt. R Kumar while Shri Sandeep Kumar was son of Shri R.L. Moria (E-32). The above act of Shri Sahdev was done with his full knowledge of facts as Shri R.L. Moria

and Sandeep were personally know to him and he has therefore indulged in an act of 'fraud and dishonesty' in connection with the employer's business.

- (x) That Shri Sahdev has indulged in an act subversive of discipline and fraud and dishonesty in connection with the employer's business is also corroborated by the fact that Shri Sahdev not only processed the interline requests received from Indian Airlines and also got approved from Air India's competent authority without checking the Reciprocal List as per the required procedure but also got the bookings made, confirmed the bookings for tickets issued against these authorities in favour of Shri Umesh Bhatia, Ms. Sonu Shaskar, Shri Sandeep Kumar and Ms. Anita Moria bearing tickets 0984413661829/30, 09484413659000/5 respectively. Further, he also prepared and affixed stickers on the tickets (E-14 to E-17) as admitted by him before the Enforcement Directorate authorities and the Enquiry Committee. He also confirmed having checked the documents of Shri Sandeep and Anita Moria when he went to deliver the tickets at the residence of Shri R.L. Moria and confirmed that there was nothing wrong with them though he was fully aware that Shri Sandeep Kumar was the son of Shri R.L. Moria and not Capt. R. Kumar. This would also been revealed by the documents. He would have also known from the documents that Anita Moria was not the daughter of Shri R.L. Moria. Yet despite this full knowledge, he deliberately allowed the issuance of fictitious authorities and tickets and further also got the bookings and confirmations done, stickers prepared and affixed on these tickets and also personally delivered them at the residence of Shri R.L. Moria, thus indulging in fraud. Moreover, these tickets also included tickets in favour of Shri Umesh Bhatia and Ms. Sonu Shaskar and Shri Umesh Bhatia was the person arrested on 10-3-1993 at IGI Airport, New Delhi by FERA authorities just when he alongwith Ms. Sonu Shaskar, Shri Sandeep Kumar and Ms. Anita Moria were about board Air India flight AI-404/DEL/SIN. Currency worth Rs.18 lakh in foreign exchange were seized from Shri Umesh Bhatia. As per the Times of India report of 10-3-1993(E-31), Shri Umesh and his companions were also carrying forged passports. That Shri Umesh Bhatia, Sonu Shaskar and Anita Moria were known to each other and to Shri Sandeep Kumar has also

been established so as the fact that Shri Sandeep had helped Shri Umesh Bhatia and Ms. Sonu Shaskar in getting the interline approved through Shri M.C. Sahdev and also their and his own, as well as Anita Moria's bookings done, confirmation made for the same flight and stickers prepared and affixed again through Shri M.C. Sahdev. All through Shri M.C. Sahdev knew that Shri Sandeep Kumar was the son of Shri R.L. Moria and not of Capt. R. Kumar. He thus indulged in an act of fraud and dishonesty with the employer's business.

From the above, it stands established beyond doubt that Shri M.C. Sahdev, Office Assistant, St. No. 06167, indulged in acts subversive of good behaviour and discipline, neglect of work and fraud and dishonesty with the employers business and guilty of the following charges:

1. fraud or dishonesty in connection with the employer's business,
2. acts subversive of discipline and
3. good behaviour, and neglect of work."

43. Ms. Rai presents that the punishment awarded to the claimant is shockingly disproportionate to his misconduct. According to her, when bar to get ticket issued in favour of one's daughter-in-law, son-in-law, brother-in-law, brother and sister was removed, the misconduct, if any, committed by the claimant was withdrawn from the list of misdemeanor, which an employee of the Airlines may commit. She presents that under these circumstances, the claimant ought not to have been punished. Contra to this, Shri Gaur argued that when misconduct was committed, there was bar in favour of daughter in law of an employee to get interline complimentary ticket. According to him, subsequent development would not exonerate the claimant from his liability. Even otherwise interline complimentary tickets were issued in favour of persons who were not eligible for the same, argued Shri Gaur. Therefore out of the facts submitted by the rival parties it would be ascertained as to what should be the appropriate punishment which could be awarded to the claimant.

44. What should be the appropriate punishment, which can be awarded to the claimant, is a proposition which would be addressed by this Tribunal. Right of an employer to inflict punishment of discharge or dismissal is not unfettered. The punishment imposed must commensurate with gravity of the misconduct, proved against the delinquent workman. Prior to enactment of Section II-A of the Act, it was not open to the industrial adjudicator to vary the order of punishment on finding that the order of dismissal was too severe and not commensurate with the act of misconduct. In other words, the industrial adjudicator could not interfere with the punishment as it was not required to consider propriety or adequacy of punishment or whether it was excessive or

too severe. Apex Court, in this connection, had, however, laid down in *Bengal Bhatdee Coal Company* [1963 (I) LLJ 291] that where order of punishment was shockingly disproportionate with the act of the misconduct which no reasonable employer would impose in like circumstances, that itself would lead to the inference of victimization or unfair labour practice which would vitiate order of dismissal or discharge. But by enacting the provisions of Section 11-A of the Act, the Legislature has transferred the discretion of the employer, in imposing punishment, to the industrial adjudicator. It is now the satisfaction of the industrial adjudicator to finally decide the quantum of punishment for proved acts of misconduct, in cases of discharge or dismissal. If the Tribunal is satisfied that the order of discharge or dismissal is not justified in any circumstances on the facts of a case, it has the power not only to set aside order of punishment and direct reinstatement with back wages, but it has also the power to impose certain conditions as it may deem fit and also to give relief to the workman, including award of lesser punishment in lieu of discharge or dismissal.

45. It is established law that imposing punishment for a proved act of misconduct is a matter for the punishing authority to decide and normally it should not be interfered with by the Industrial Tribunals. The Tribunal is not required to consider the propriety or adequacy of punishment. But where the punishment is shockingly disproportionate, regard being had to the particular conduct and past record, or is such as no reasonable employer would ever impose in like circumstance, the Tribunal may treat the imposition of such punishment as itself showing victimization or unfair labour practice. Law to this effect was laid by the Apex Court in *Hind Construction and Engineering Company Ltd.* [1965 (I) LLJ 462]. Likewise in *Management of the Federation of Indian Chambers of Commerce and Industry* [1971 (II) LLJ 630] the Apex Court ruled that the employer made a mountain out of a mole hill and had blown a trivial matter into one involving loss of prestige and reputation and as such punishment of dismissal was held to be unwarranted. In *Ram Kishan* [1996 (I) LLJ 982] the delinquent employee was dismissed from service for using abusive language against a superior officer. On the facts and in the circumstances of the case, the Apex Court held that the punishment of dismissal was harsh and disproportionate to the gravity of the charge imputed to the delinquent. It was ruled therein, “when abusive language is used by anybody against a superior, it must be understood in the environment in which that person is situated and the circumstances surrounding the event that led to the use of abusive language. No straight-jacket formula could be evolved in adjudicating whether the abusive language in the given circumstances would warrant dismissal from service. Each case has to be considered on its own facts”.

46. In *B.M. Patil* [1996 (II) LLJ 536], Justice Mohan Kumar of Karnataka High Court observed that in exercise of

discretion, the Disciplinary Authority should not act like a robot and justice should be moulded with humanism and understanding. It has to assess each case on its own merit and each set of fact should be decided with reference to the evidence regarding the allegation, which should be basis of the decision. The past conduct of the worker may be a ground for assuming that he might have a propensity to commit the misconduct and to assess the quantum of punishment to be imposed. In that case a conductor of the bus was dismissed from service for causing revenue loss of 50p to the employer by irregular sale of tickets. It was held that the punishment was too harsh and disproportionate to the act of misconduct.

47. After insertion of Section 11-A of the Act, the jurisdiction to interfere with the punishment is there with the Tribunal, who has to see whether punishment imposed by the employer commensurate with the gravity of the act of misconduct. If it comes to the conclusion that the misconduct is proved, it may still hold that the punishment is not justified because misconduct alleged and proved is such as it does not warrant punishment of discharge or dismissal and where necessary, set aside the order of discharge or dismissal and direct reinstatement with or without any terms or conditions as it thinks fit or give any other relief, including the award of lesser punishment, in lieu of discharge or dismissal, as the circumstance of the case may warrant. Reference can be made to a precedent in *Sanatak Singh* (1984 Lab.I.C. 817). The discretion to award punishment lesser than the punishment of discharge or dismissal has to be judiciously exercised and the Tribunal can interfere only when it is satisfied that the punishment imposed by the management is highly disproportionate to the decree of the guilt of the workman. Reference can be made to the precedent in *Kachraji Motiji Parmar* [1994 (II) LLJ 332]. Thus it is evident that the Tribunal has now jurisdiction and power of substituting its own measure of punishment in place of the managerial wisdom, once it is satisfied that the order of discharge or dismissal is not justified. On facts and in the circumstances of a case, Section 11A of the Act specifically gives two folds powers to the Industrial Tribunal, first is virtually the power of appeal against findings of fact made by the Enquiry Officer in his report with regard to the adequacy of the evidence and the conclusion on facts and secondly of foremost importance, is the power of reappraisal of quantum of punishment.

48. In *Bharat Heavy Electricals Ltd.* [2005 (2) S.C.C. 481] the Apex Court was confronted with the proposition as to whether power available to the Industrial Tribunal under Section 11-A of the Act are unlimited. The Court opined that “there is no such thing as unlimited jurisdiction vested with any judicial or quasi judicial forum and unfettered discretion is sworn enemy of the constitutional guarantee against discrimination. An unlimited jurisdiction leads to unreasonableness. No authority, be it

administrative or judicial, has any power to exercise the discretion vested in it unless the same is based on justifiable grounds supported by acceptable materials and reasons thereof". The Apex Court relied its judgment in *C.M.C. Hospital Employees Union* [1987 (4) S.C.C. 691] wherein it was held that "Section 11-A cannot be considered as conferring an arbitrary power on the Industrial Tribunal or the Labour Court. The power under section 11-A of the Act has to be exercised judiciously and the Industrial Tribunal or Labour Court is expected to interfere with the decision of a management under section 11-A of the Act only when it is satisfied that the punishment imposed by the management is highly disproportionate to the degree of guilt of the workmen concerned. The Industrial Tribunal or Labour Court has to give reasons for its decision". In *Hombe Gowda Educational Trust* [2006 (1) S.C.C. 430] the Apex Court announced that the Tribunal would not normally interfere with the quantum of punishment imposed by the employer unless an appropriate case is made out therefore.

49. Power to set aside order of discharge or dismissal and grant relief of reinstatement or lesser punishment is not untrammelled power. This power has to be exercised only when Tribunal is satisfied that the order of discharge or dismissal was not justified. This satisfaction of the Tribunal is objective satisfaction and not subjective one. It involves application of the mind by the Tribunal to various circumstances like nature of delinquency committed by the workman, his past conduct, impact of delinquency on employer's business, besides length of service rendered by him. Furthermore, the Tribunal has to consider whether the decision taken by the employer is just or not. Only after taking into consideration these aspects, the Tribunal can upset the punishment imposed by the employer. The quantum of punishment cannot be interfered with without recording specific findings on points referred above. No indulgence is to be granted to a person, who is guilty of grave misconduct like cheating, fraud, misappropriation of employer's fund, theft of public property etc. A reference can be made to the precedent in *Bhagirath Mal Rainwa* [1995 (1) LLJ 960].

50. As projected above, claimant was under an obligation to process requests for interline complementary tickets, as per Reciprocal List, supplied by the Indian Airlines. Instead of processing requests received in favour of the above persons, claimant did not check Reciprocal List available with him. Contra to it, Shri R.L. Moria, who was well known to him, was working as Store Superintendent with the Indian Airlines. The claimant processed authority in favour of Shri R.L. Moria projecting him as Finance Manager. Claimant was also aware that Shri Sandeep Kumar was son of Shri R.L. Moria. He projected Shri Sandeep Kumar as son of Shri R. Kumar, Deputy Operation Manager and processed authority in his favour. He got authority issued in favour of Shri R.L. Moria and his family members fraudulently and delivered

tickets at the residence of Shri Moria. He did not check Reciprocal List in respect of Ms. Sonu Shaskar and Shri Umesh Bhatia, daughter and son of Shri K.N. Shaskar and Capt. S. Bhatia respectively, whose names did not appear on the Reciprocal List. He got authority approved in their favour and thus acted in a fraudulent manner. For these acts, claimant was dismissed from service with retiral benefits.

51. Question for consideration comes as to whether punishment awarded to the claimant was shockingly disproportionate to his misconduct, justifying interference by this Tribunal. In *Firestone Tyre and Rubber Company of India (Pvt.) Ltd.* [1973 (1) S.C.C. 813], the Apex Court ruled that once misconduct is proved, the Tribunal had to sustain order of punishment unless it was harsh indicating victimisation. It has been further laid therein that if a proper enquiry is conducted by an employer and a correct finding arrived at regarding the misconduct, the Tribunal, even though now empowered to differ from the conclusion arrived at by the management, will have to give very cogent reasons for not accepting the view of the employer. Again in *Divisional Controller K.S.R.T.C. (N.W.K.R.T.C.)* [2005 (3) S.C.C. 254] it was laid that question of quantum of punishment would not be weighed on amount of money misappropriated but it should be based on loss of confidence, which is a primary factor to be taken into account. Once a person is found guilty of misappropriating his employer's fund, there is nothing wrong for the employer to lose confidence or faith in such a person, awarding punishment of dismissal.

52. The claimant acted in contravention of settled procedure and with dishonest intention. It was well known to him that Shri Moria was working as Store Superintendent in Indian Airlines. He projected him as Finance Manager and fraudulently got approved authority, issued tickets and delivered the same at his residence. Knowing well that Shri Sandeep Kumar was son of Shri R.L. Moria, he had shown him as son of Shri R. Kumar, Deputy Operational Manager. All these facts make it clear that the claimant acted with dishonest intention with a motive to defraud his employer. The same has been the case when he failed to check Reciprocal List in respect of Shri Umesh Bhatia and Sonu Shaskar.

53. Act of dishonesty or fraud constitute misconduct of serious nature, warranting penalty of dismissal, whenever an employee, holding responsible position, deliberately allows others to cause loss to the property of his employer. Misconduct committed by the claimant is of serious nature. An employer cannot repose confidence in such an employee. For such misconduct, punishment of dismissal is the appropriate punishment. It cannot be said that the punishment awarded to the claimant is shockingly disproportionate to the misconduct committed by him.

54. In view of the reasons detailed above, I am of the considered opinion that no interference with the

punishment awarded to the claimant is called for. No reasons are brought over record which may justify this Tribunal to exercise its powers under section 11A of the Act and to award lesser punishment to the claimant. Consequently, no interference is made in the punishment awarded to the claimant. His claim is dismissed, being devoid of merits. An award is, accordingly, passed in favour of the Airlines and against the claimant. It be sent to the appropriate Government for publication.

Dated: 27-6-2012

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 11 जुलाई, 2012

का.आ. 2539.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार माराठवाडा ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 83/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-7-2012 को प्राप्त हुआ था।

[सं. एल-12012/50/2005-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 11th July, 2012

S.O. 2539.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 83/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Marathwada Gramin Bank, and their workmen, received by the Central Government on 6-7-2012.

[No. L-12012/50/2005-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/83/2005

Date: 11-6-2012.

Party No. 1 The Chairman,
Marathwada Gramin Bank,
Head Office- Shivaji Nagar,
Nanded (MS)-431602

Versus

Party No. 2 The General Secretary,
Marathwada Gramin Bank Employees
Federation, Head Office- Shivajinagar,
Nanded, (M.S.)

AWARD

(Dated: 11th June, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Marathwada Gramin Bank and their workman, Shri Vithal Sasane, for adjudication, as per letter No. L-12012/50/2005-IR (B-I) dated 24-10-2005, with the following schedule :—

"Whether the action of the management of Marathwada Gramin Bank, Nanded (MS) through its Chairman is

justified in awarding punishment of dismissal from services to the workman Sh. Vithal Tukaram Sasane w.e.f. 25-9-2001? If not, then what relief the workman entitled to?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman Shri Vithal Sasane, ("the workman" in short) through his union, "Marathwada Gramin Bank Employees Federation", ("the union" in short) filed the statement of claim and the management of Marathwada Gramin Bank, ("party no.1" in short) filed the written statement.

The case of the workman as presented by the union in the statement of claim is that the workman was appointed on 18-8-1993 on compassionate ground and was posted at Nanded Branch of the Bank and he served the Bank honestly and faithfully for 7 years and no Memo or show cause notice was issued against the workman during the period of his service and on 29-12-1999, while he was serving as the cashier of Chakalamba branch of the bank, during the course of exchanging of big denomination notes for small denomination, to a valued customer (Shri Prakash Yadavrao Deshpande) of the Bank, he paid Rs. 60,000 instead of Rs. 10,000, leading to cash shortage of Rs. 50,000, and such shortage of cash was detected at the end of the business and the said fact was brought to the notice of the branch manager and the workman requested the branch manager to allow him to make enquiry about the excess payment from the concerned customer and to make arrangement for making good of the shortage of cash of Rs. 50,000 from his relatives/friends etc and the workman also gave his statement to the manager in regard to the cash shortage and asked for one day leave, to make arrangement of cash of Rs. 50,000 and during the enquiry, Mr. Deshpande revealed that he had received excess cash of Rs. 50,000, while exchanging the notes and refunded the excess amount of Rs. 50,000 immediately and the workman was under pressure due to family problems on 29-2-1999 and the excess payment of cash of Rs. 50,000 to Shri Deshpande was not intentional and due to mistake on the part of the workman and the Branch Manager and Area Manager construed the unintentional mistake of the workman as misappropriation/ fraud and reported the matter to the Central Office of the bank and the management of the bank conducted departmental enquiry, which was conducted with prejudiced mind and by not giving natural justice to the workman and finally, the management of the bank dismissed the workman from services w.e.f. 25-9-2001, without taking into consideration the objection raised by the workman against the departmental enquiry and the penalty imposed against the workman is disproportionate and excess.

Prayer has been made by the union to set aside the punishment of dismissal from services imposed against the workman and to reinstate the workman in service with continuity.

3. The party no. 1 in its written statement has pleaded inter-alia that the workman was appointed on compassionate

ground as a clerk- cum-cashier on 18-8-1993 and actually on 29-12-1999, the shortage was detected by the Branch Manager, while verifying the cash and the workman had never reported about the shortage of cash to the branch manager and instead, the workman prepared false cash docket and showed the case as tallied and he had never told about paying excess cash to the customer, but accepted the responsibility in writing, before the Area Manager, who investigated into the matter on 30-12-1999 and only afterwards, the workman took the stand that excess payment was made to one customer and such stand was an afterthought, without any proof and such stand could not be accepted, the same being illogical and not supported by evidence and the workman intentionally defalcated the amount and tried to conceal the facts by preparing false and fabricated cash docket, showing the cash to have tallied and as such, the matter was reported to the Head office by the Area manager and with an intention to enquire into the truth, the departmental enquiry was conducted against the workman by issuing charge sheet dated 11-09-2000 and full opportunity was given to the workman to defend his case, as per the principles of natural justice and the procedure of departmental enquiry was followed and after taking into consideration the evidence adduced by the parties, the enquiry officer came to the conclusion that the charges have been proved against the workman and the disciplinary authority also went through the enquiry report and findings of the enquiry officer and came to the conclusion that enquiry was properly conducted and the findings submitted by the enquiry officer were based on the evidence produced before him and after carefully considering the aggravating and extenuating factors and circumstances of the case, the disciplinary authority conveyed the proposed punishment for the charges proved and personal hearing on proposed punishment was given to the workman on 14-8-2001 and the workman was present along with his defence representative and during hearing, the workman accepted the commission of the misconduct and promised not to repeat the same and requested to reduce the punishment and he did not raise any objection to the departmental enquiry and after giving careful consideration to the plea of the workman, the disciplinary authority did not accept the request of the workman, in view of commission of grave misconduct and imposed the punishment of "dismissal without notice" and the appeal filed by the workman against the order of punishment was put up before the appellate authority on 23-11-2001, along with the records of the enquiry and the appellate authority after considering the seriousness of the misconducts, evidence on record and argument of both sides came to the conclusion that the punishment awarded was just, proper and legal and therefore, dismissed the appeal and the departmental enquiry was conducted in accordance with the principles of natural justice and the workman was given every opportunity to defend himself in the enquiry and as the workman committed the act of defalcation/fraud

of Rs. 50,000, which was proved against him in the departmental enquiry, the punishment imposed against him is proportionate and the workman is not entitled to any relief.

4. It is necessary to mention here that though the workman filed his evidence on affidavit in support of his claim, he did not appear for his cross-examination, inspite of giving him several opportunities for the same. The workman remained absent on 13-06-2007 and thereafter. So, the evidence of the workman on affidavit was expunged as per orders dated 21-02-2011.

5. As this is a case of dismissal of the workman from services, after holding a departmental enquiry, the validity of the departmental enquiry was taken up as a preliminary issue for consideration and by order dated 16-4-2012, the departmental enquiry was held to be legal, proper and in accordance with the principles of natural justice.

6. It is necessary to mention here that as the workman remained absent on 07-05-2012, to which date the case was fixed for hearing of argument on the questions of perversity of the findings and quantum of punishment, order was passed to proceed ex parte with the case against him and argument was heard in full from the side of the party no.1 and the reference was posted for award.

7. Perused the record including the documents of the enquiry proceedings produced by the party no. 1. On perusal of the documents, it is found that the findings of the enquiry officer are based on the evidence adduced in the departmental enquiry. The enquiry officer has assigned cogent reasons in support of his findings. Hence, the findings of the enquiry officer cannot be said to be perverse.

8. So far the proportionality of the punishment is concerned, it is found from the record that serious misconducts including defalcation of Rs. 50,000 have been proved against the workman in a properly conducted departmental enquiry. The Bank is a financial institution and the persons working in the Bank and dealing with public money should possess highest degree of integrity and trustworthiness and in such a case no leniency can be shown. Taking into consideration the grave misconducts committed by the workman the punishment imposed against the workman cannot be said to be shockingly disproportionate, calling for any interference. Hence, it is ordered:-

ORDER

The action of the management of Marathwada Gramin Bank, Nanded (MS) through its Chairman in awarding punishment of dismissal from services to the workman Sh. Vithal Tukaram Sasane w.e.f. 25-09-2001 is justified. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 11 जुलाई, 2012

का.आ. 2540.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जेट एयरवेज लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, नई दिल्ली के पंचाट (शिकायत नम्बर 323/2011 धारा 33ए के अंतर्गत) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-07-2012 को प्राप्त हुआ था।

[सं. एल-20013/4/2012-आई आर (सी-I)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 11th July, 2012

S.O. 2540.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi (filed under Section 33-A in the matter of ref. No. 323/2011) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Jet Airways Limited and their workmen, which was received by the Central Government on 11-07-2012.

[No. L-20013/4/2012-IR(C-I)]

AJEET KUMAR, Section Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX,
DELHI**

I.D. NO. 323/2011

Sh. Surjeet Singh & Ors.,
H.No.1559, Sector-45,
Gurgaon, Haryana.

... Claimant

Versus

M/s. Jet Airways Limited,
Jet Air House 13, Community Centre,
Yusuf Sarai, New Delhi-110049.

... Management

AWARD

Claimants, ex-employees of Jet Air (Pvt.) Ltd. (herein after referred to as the management), claim that they were employed in various capacities such as drivers and loaders with the management. Their service conditions were miserable and no steps for amelioration were taken. They raised a dispute before the Conciliations Officer, who entered into conciliation proceedings. During the pendency of those proceedings, the management made them to submit applications for voluntary retirement. Having no alternative, they tendered applications on 26th Nov., 2010 for their voluntary retirement, which act of the management is violative of the provisions of section 33 of

the Industrial Dispute Act, 1947 (in short the Act). Through the present complaint, moved under section 33-A of the Act, they seek reinstatement in the services of the management.

2. Arguments are heard at the bar. Shri Rakesh Gaur, authorised representative of the claimant, raised his submissions at length. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on the issues involved in the controversy are as follows:

3. Section 33 of the Act bars alteration in conditions of service "prejudicial" to the workman concerned in the dispute and punishment of discharge or dismissal when either is connected with pendentelite industrial dispute "save with the permission of the authorities before which the proceedings is pending"; or where the discharge or dismissal is for any misconduct not connected with the pendentelite industrial dispute without the "approval of such authority". Prohibition contained in section 33 of the Act is two fold. On one hand, they are designed to protect the workman concerned during the course of industrial conciliation, arbitration and adjudication, against employers' harassment and victimization, on account of their having raised the industrial dispute or their continuing the pending proceedings and on the other, they seek to maintain status quo by prescribing management conduct which may give rise to "fresh dispute" which further exacerbate the already strained relations between employer and the workman. Where industrial disputes are pendentelite before an authority mentioned in the section, it was thought necessary that such disputes should be conciliated or adjudicated upon by the authority in a peaceful atmosphere, undisturbed by any subsequent causes for bitterness or unpleasantness. To achieve this object, a ban has been imposed upon the employer exercising his common law, statutory or contractual right to terminate the services of his employees according to contract or the provisions of law governing such service. The ordinary right of the employer to alter the terms of his employees' services to their prejudice or to terminate their services under the general law governing contract of employment, has been banned subject to certain conditions. This ban, therefore, is designed to restrict the interference of the general rights and liabilities of the parties under the ordinary law within the limits truly necessary for accomplishing the object of those provisions. Anxiety to know about ban on the right of the employer, persuades me to reproduce the provisions of section 33 of the Act thus:

"33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.—(1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before an arbitrator or a Labour Court or Tribunal or National Tribunal

in respect of an industrial dispute, no employer shall:—

- (a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or
- (b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workman concerned in such dispute.

Save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with standing orders applicable to a workman concerned in such dispute or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman—

- (a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or
- (b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

- (3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute —
- (a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceeding; or
- (b) by discharging or punishing, whether any dismissal or otherwise, such protected workman, save with the express permission in writing of the authority before which the proceeding is pending.

Explanation. - For the purposes of this sub-section, a "protected workman", in relation to an establishment, means a workman who, being a member of the executive or other office bearer of

a registered trade union connected with the establishment, is recognized as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workmen to be recognized as protected workmen for the purposes of sub-section (3) shall be one per cent of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognized as protected workmen.

(5) Where an employer makes an application to a conciliation officer, Board, an arbitrator, a Labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, within a period of three months from the date of receipt of such application, such order in relation thereto as it deems fit :

Provided that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further period as it may think fit:

Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.

4. As noted above sub-sections (1) and (2) are designed for different purposes since sub-section (1) applies to the proposition when the employer wants to alter service conditions of the workman to his prejudice in regard to any matter connected with the dispute or for any misconduct connected with the dispute, in that situation he is obliged to seek prior permission in writing of the authority before whom the dispute is pending and in a case where the employer wants to alter service conditions of a workman in regard to a matter not connected with the dispute or for any misconduct not connected with the dispute, in that situation he is obliged to seek approval of the order under sub-section (2) of the aforesaid section. When an employer violates the provisions of sub-section (1) or sub-section (2) of Section 33 of the Act, an instant remedy is provided to the workman by the provisions of Section 33A of the Act. In other words, where an employer has contravened the provisions of section 33, the aggrieved workman has been given the option to make a complaint in writing, to the authority before which an industrial dispute is pending, with which the aggrieved workman is concerned. The complaint of such

contravention can be made not to the adjudicating authorities, but to the conciliatory authority also. If a complaint is made to a conciliatory authority, viz. a Conciliation Officer or a Board of Conciliation, clause (a) of section 33 A of the act authorizes a Conciliation Officer or the Board to take such complaint into account in bringing about a settlement of the complained dispute. The Conciliation Officer or the Board is not empowered to adjudicate upon the dispute, which is the area of adjudicatory authorities. When a complaint is made to adjudicatory authority viz. Arbitrator, Labour Court, Tribunal or National Tribunal, it will adjudicate upon the dispute as if it is a dispute referred to or pending before it.

5. To attract the provisions of section 33A of the Act, following conditions precedent are to be satisfied.

1. that there should have been a contravention by the management of the provisions of section 33 of the Act,
2. that the contravention should have been during the pendency of the proceedings before the conciliatory authorities or Labour Court, Tribunal or National Tribunal, as the case may be.
3. that the complainant should have been aggrieved by the contravention, and that the application should have been made to the Labour Court, Tribunal or the National Tribunal in which original proceedings are pending.

6. On turning to the facts, it is to be announced that during the course of arguments, Shri Gaur projects that the management made all the claimants to retire voluntarily on 26-11-2010 and paid their retiral benefits. It is not a disputed fact that their retiral benefits were paid through cheques, which were encashed by them by way of presentation of those cheques to their respective bankers for encashment. Thus it is emerging on record that from last one year the claimants have utilized the money given to them by the management as retiral benefits. Their acts and conduct make it implicit that their retirement from the services of the management was owing to their acts of violation, without any pressure or coercion from any corner. Now with an ulterior motive, they want to assert that the management made them to submit applications for voluntary retirement. Their contention is unfounded and cannot provide accolades to them. When voluntary retirement was sought by the claimants, it cannot be said that the management did some act of alteration of their service conditions to their prejudice.

7. The claimants could not show any act on the part of the management, which was in contravention of the provisions of section 33 of the Act. Requisite conditions, to invoke the provisions of section 33-A of the Act, has not been brought over the record. Hence complaint is dismissed at the threshold. An award is, accordingly,

passed. It be sent to be appropriate Government for publication.

Dated: 30-11-2011

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 11 जुलाई, 2012

का.आ. 2541.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारतीय विमानपत्तन प्राधिकरण, मुम्बई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय न. 2, मुम्बई के पंचाट(संदर्भ संख्या-26/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-7-2012 को प्राप्त हुआ था।

[सं. एल-11011/53/2004-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 11th July, 2012

S.O. 2541.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 26/2008) of the Central Government Industrial Tribunal/Labour Court No. 2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Airport Authority of India (Mumbai) and their workman, which was received by the Central Government on 2-7-2012.

[No. L-11011/53/2004-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT: K.B. KATAKE, Presiding Officer

Reference No. CGIT-2/26 of 2008

Employers in Relation to the Management of M/s. Airport Authority of India

The Airport Director
M/s. Airport Authority of India
Chhatrapati Shivaji International Airport
Domestic Terminal 1-B
Mumbai-400 099

AND

Their Workman

The President
Airport Kamgar Union
CPWD Office Compound
Bamanwada
Vile Parle (E)
Mumbai-400099

Appearances:

For the Employer : Mr. B. G Goyal, Mr. V. Hariharan,
Advocates
For the Workman : Mr. J.H. Sawant, Advocate
Mumbai, dated the 30th April, 2012

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L- 11011/53/2004-IR (M), dated 28-4-2008 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“(i) Whether the contract between Airport Authority of India and M/s. Sarathi Enterprises engaging Shri Suresh Sakaram Veer and Six others listed in Annexure-A is sham and bogus as claimed by the Airport Kamgar Union? (ii) To what relief the workmen are entitled to?”

Annexure ‘A’

1. Shri Suresh S. Veer
2. Shri Sahadev S. Main
3. Shri Suresh S. Dhumak
4. Shri Tukaram D. Kangane
5. Shri Shantaram D. Jadhav
6. Krishna G. Kangane
7. Anant S. Pawar

2. After receipt of the reference, notices were issued to both the parties. Second party union filed their statement of claim Ex-7 praying to direct first party to absorb the second party in its services as permanent workmen from the dates of their initial appointment alongwith all consequential benefits. First party resisted the statement of claim of second party by filing their written statement Ex-10. They denied all the contention made by the second party in its statement of claim and prayed to reject the reference in toto. Thereafter issues were framed at Ex-11 and the matter was fixed for evidence of second party.

3. Meanwhile second party union filed application dated 30-4-2012 (Ex-12) for disposing the reference for want of prosecution as they would take appropriate steps for re-dressal of their grievance for payment of dues.

4. As prayed in the application Ex-12 by Second party union, the reference is dismissed for want of prosecution. Thus I pass the following order :

ORDER

Reference stands dismissed for
want of prosecution. No order as
to cost

Date: 30-4-2012

K.B. KATAKE, Presiding Officer

नई दिल्ली, 11 जुलाई, 2012

का.आ. 2542.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सतना स्टोन एंड लाईम कंपनी लिमिटेड, कोलकत्ता के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या-31,32,33/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-7-2012 को प्राप्त हुआ था।

[सं. एल-29012/58, 59, 60/2007-आईआर(एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 11th July, 2012

S.O. 2542.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.31,32,33/2008) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Satna Stone Lime Co. Ltd. (Kolkatta) and their workman, which was received by the Central Government on 2-7-2012.

[No. L-29012/58, 59, 60/2007-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT,
JABALPUR**

SHRI MOHD. SHAKIR HASAN, Presiding Officer

Case No. CGIT/LC/R/31/08,32/08 & 33/08

Shri Ram Saroj Kushwaha,
General Secretary,
AITUC Distt. Parishad,
AITUC Office, Sidharth Nagar,
Post Birla Vikas,
Distt. Satna (MP)

....Workman/Union

Versus

The Managing Director,
Satna Stone Lime Co. Ltd.,
6, Middle Road, Hasting,
Kolkatta

.....Management

AWARD

Passed on this 17th day of May, 2012

1. (a) The Government of India, Ministry of Labour vide its Notification No. L- 29012(58)/2007-IR(M) dated 25-2-2008 has referred the following dispute for adjudication by this tribunal :—

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-00 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Chhedilal Chamaar, S/o Shri Ramsajivan Chamaar and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(b) The Government of India, Ministry of Labour vide its Notification No. L-29012(59)/2008-IR(M) dated 25-2-2008 has referred the following dispute for adjudication by this tribunal :—

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Keshri Chamaar S/o Shri Devideen Chamaar and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal ? If not, to what relief the workman is entitled to?”

(c) The Government of India, Ministry of Labour vide its Notification No. L-29012(60)/2008-IR(M) dated 25-2-2008 has referred the following dispute for adjudication by this tribunal :—

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Smt. Shanti Chamaar in W/o Shri Chunka Chamaar and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to ?”

2. All the three reference cases are taken up together as all are between the same parties and are on a common subject matter.
3. The Union nor any workmen appeared in the reference cases inspite of proper and sufficient notice issued against the Union by Registered post. The reference order was also sent by the Desk Officer directing the Union to file statement of claim complete with relevant documents, list of relivance and witnesses with the Tribunal within fifteen days of the receipt of the order but the Union had not filed his claim in the reference cases pending since long. This shows that now there is no industrial dispute left between the parties.

4. On the other hand, the management has also not appeared in the case inspite of registered notices nor complied the order of reference of the Ministry. This shows that there is no dispute between the parties. Thus these cases are of no dispute. Accordingly the references are answered.

5. In the result, a common award of no dispute is passed in all the references without any order to costs.

MOHD. SHAKIR HASAN. Presiding Officer

नई दिल्ली, 13 जुलाई, 2012

का.आ. 2543.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (आईडी संख्या 93/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-07-2012 को प्राप्त हुआ था।

[सं. एल-22012/167/1992-आई आर (सी-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 13th July, 2012

S.O. 2543.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 93/2000) of the Central Government Industrial Tribunal, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 13-07-2012.

[No. L-22012/167/1992-IR(C-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

No. CGIT/NGP/93/2000

Dated 18-6-2012

- | | |
|--------------------|---|
| Party No. 1 | : The Distt. Manager,
Food Corporation of India,
Ajni, Nagpur
V/s |
| Party No. 2 | : The Secretary,
Food Corporation of India,
Employees Association,
C/o. Food Corp'n. of India,
Ajni, Nagpur |

AWARD

(Dated : 18th June, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of FCI and their workman, Shri R.B.S. Prasad, for adjudication as per letter No. L-22012/167/F/92-IR (C-II) dated 31-8-92, to CGIT-cum-Labour Court, Jabalpur for adjudication with the following schedule:—

"Whether the action of the management of Food Corporation of India, Nagpur, in not promoting Shri R.B.S. Prasad AG. Gr. III (Depot) to AG Gr. II (Depot) in the year 1989 is justified? If not, to what relief the workman concern is entitled?"

Subsequently, the reference was transferred to this Tribunal for adjudication in accordance with law.

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman Shri R.B.S. Prasad ("the workman" in short) through his union, the "Food Corporation of India Employees Association" ("the union" in short) filed the statement of claim, claiming that he (the workman) is entitled for promotion from AG Gr. III (D) to AG Gr. II (D) w.e.f. 21-2-1990, the date on which his juniors were promoted.

3. The management of FCI ("party no. 1" in short) filed the written statement pleading inter-alia that the workman was not entitled for promotion, as a departmental proceeding was initiated against him for committing misconduct and he was charge sheeted on 31-8-1991.

4. During the pendency of reference, the workman expired. The representative of party no. 1 filed an application alongwith xerox copy of the death certificate of the workman and a document showing the payment of terminal benefits to the workman's legal heirs, on 10-5-2012, and prayed to close the reference. On 18-6-2012 the Secretary of the union also filed an application for closure of the reference on the ground of the death of the workman.

As admittedly, the workman is already dead and there is no substitution of the legal heirs of the deceased workman and as the union, who had espoused the dispute doesn't want to proceed with the case, it is necessary to pass a "no dispute" award in this case and to close the reference. Hence, it is ordered:—

ORDER

The reference may be treated as "no dispute" award. The application filed by the management and so also the union are made part of the award.

J.P. CHAND, Presiding Officer

**BEFORE THE PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL- CUM- LABOUR COURT, NAGPUR**

CGIT Case No. 93/2003

Applicant : Late R.B.S. Prasad
(Through the Secretary FCIEA Now
B.K.N.K. Sangh, Nagpur)

Versus

Non-applicant : District Manager (Now Area Manager,
FCI, Nagpur)

**Rejoinder by the Management of Food Corporation of
India, Nagpur**

1. That as per the order dt. 27-2-2012. the Non-Applicant is filling the following documents.
2. That the Applicant viz, Shri (Late) R.B.S. Prasad, expired on 22-4-2006 at Wardha, The attested Xerox copy of his Death Certificate No. 62 dated 17-5-2006 issued by Gram-Panchyat, Warud, District Wardha in enclosed here with as Annex-A
3. That all the dues, have already been paid to the legal heir of Shri (Late) R.B.S. Prasad. A declaration dtd. 22-3-2012 recived from Manager (A/Cs), FCI, Nagpur, intimating that no amount is outstanding, is also enclosed herewith as Annx-B

PRAYER

It is therefore, most respectfully prayed that the Hon'ble Court may be pleased to :—

1. Close the case as the applicant R.B.S. Prasad is no more.
2. Any other relief to which the non applicant may be found entitled to may also kindly be granted.

Nagpur

Dated : 10-5-12

NON-APPLICANT
DISTRICT MANAGER/AREA MANAGER
F.C.I. D.O. NAGPUR

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL - CUM- LABOUR COURT,
NAGPUR**

Case No. CGIT/NGP/93/2003

Applicant: Shri RBS Prasad
Through Secretary B.K.N.K. Sangh, Nagpur

Vs.

Non Applicant: The District Manager
FCI Nagpur

**APPLICATION FOR CLOSURE OF THE
CASE ON MERIT**

The Applicant union most respectfully prays before your authority that due to demise of Workman and the

wife of deceased employee is not keeping good health due to that she is unable to attend the case. Therefore, kindly close the case on merit.

It is therefore, requested to close the case on merit.

N.S. SHUKLA, Secy, B.K. N.K. SANGH
FCI: Nagpur

नई दिल्ली, 13 जुलाई, 2012

का.आ. 2544.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 21/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-07-2012 को प्राप्त हुआ था।

[सं. एल-22012/66/2006-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 13th July, 2012

S.O. 2544.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 21/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of WCL and their workmen, received by the Central Government on 13-07-2012.

[No. L-22012/66/2006-IR(CM-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case.No.CGIT/NGP/21/2007 dated: 22-6-2012

Party No. 1 : The Chief General Manager
WCL, Pench Area, PO: Parasia,
Distt. Chhindwara, (MP)

Versus

Party No. 2 : The General Secretary,
R.K.K.M.S. (INTUC), PO: Chandametta,
Distt. Chhindwara, (MP)

AWARD

(Dated: 22nd June, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the Industrial

Dispute between the employers, in relation to the management of WCL and their workman, Shri Parikshit Dutta, for adjudication, as per letter No. L- 22012/66/2006-IR (CM-II) dated 2-3-2007, with the following schedule:—

“Whether the action of the management in not granting additional increment to Shri Parikshit Kumar Dutta, LDC, on acquiring B.A. degree is legal & justified? If not, to what relief is the workman entitled?”

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Parikshit Kumar Dutta, ("the workman" in short), filed the statement of claim through the union and the management of WCL, Pench Area, ("Party No.1" in short) filed its written statement.

The case of the workman as presented by the union in the statement of claim is that the workman is working as a clerk in EDC colliery, Pench Area of Western Coalfields Ltd. and the workman passed B.A. examination in December, 1999 from National Open University and such result was declared in April, 2000 and according to the policy of WCL, an employee is entitled for one advance increment for obtaining B.A. degree and on the basis of such policy, the workman made an application on 2-6-2000 to the Area Personnel Manager, Pench Area, for grant of the advance increment in his favour, but as no action was taken by the management on his application, the workman again on 20-11-2000 gave a reminder and the same was forwarded by the Manager of EDC colliery vide letter no. WCL/Pench/EDC/2000.676 dated 20-11-2000 to the Area personnel Manager, Pench Area for further action and though on the basis of the above mentioned policy, Ganesh Prasad and three others had been granted one advance increment each, vide letter no. WCL/Pench/P/145/512/99 dated 27-2-1999 of the Personnel Manager, Pench Area, the workman was not granted such increment by the management and as such, the industrial dispute was raised.

The union has prayed to direct the management of WCL to grant an advance increment to the workman w.e.f. 21-6-2000 and to pay the payment of the arrears.

3. The party no. 1 in its written statement has pleaded inter-alia that the reference is highly belated and the workman has sought relief w.e.f. 2000, whereas, the present dispute was raised only in the year 2007, after a lapse of seven years and as such, the dispute is not maintainable, in view of the principles enunciated by the Hon'ble Apex Court in the decision reported in AIR 2000 SC-839 (Nedungadi Bank Ltd. Vs. Madhvan Kutti and others). It is further pleaded by the party no. 1 that service conditions of the employees working in the Coal Industry are governed by provisions of National Coal Wage Agreement (NCWA), cadre scheme made there under and provisions

of Standing Orders and circulars issued by the management from time to time are also binding on the employees and the workman claimed for grant of advance increment, for acquiring professional qualifications as contained in para 7.8 of Chapter VII of common coal cadre, on the ground of his obtaining B.A. degree and as according to paragraph 7.8 of Chapter-VII of the Common Coal Cadre, an employee is entitled for an additional increment, only on the ground of acquiring additional professional qualification, as contained in the said chapter and as B.A. degree is not an additional professional qualification, the workman is not entitled to such benefit and the Coal India vide circular dated 13-3-2001 advised all the Subsidiary Companies not to grant advance increment to any employee under the aforesaid common coal cadre, till further decision in the matter, because the said provision is under review and the said circular is binding on the employees and the management and the said circular is still in force and unless and until, the circular is withdrawn and struck down by the appropriate authority, the same is binding on the workman as well as the management and as long as the said circular is in force, the workman is not entitled to the benefit of advance increment and he has no case.

4. In the rejoinder, the union has pleaded that the reference is maintainable in view of the decisions of the Hon'ble Apex Court reported in 2001 AIR SUW-2685 (Sapan Kumar Pandit Vs. UP State Electricity Board and others), AIR 2000 SC-469 (National Engineering Industrial Ltd. Vs. State of Rajasthan) and (1984) 4 SCC-392 (Workmen Employed by Hindustan Lever Ltd. Vs. Hindustan Lever Ltd.) and the case of the workman falls under the operation period of NCWA VI and the workman obtained B.A. Degree in December, 1999 and applied in 12-5-2000 for the additional increment and as such, he is entitled for the increment and as per item no. 10 of schedule I of Para 7.8 of Chapter VII for obtaining "Any other type of recognized technical professional skill or proficiency relevant to Coal Industry", an employee is entitled for one increment and vide circular no. 309 dated 1-9-1997, the Additional Chief Personnel Officer (Administration), WCL, Nagpur under approval of CMD, WCL, Nagpur sent directions regarding grant of one increment for obtaining B.A. Degree to the employees, to all General Managers, All Finance Manager and all Head of Departments, Nagpur and as such, the workman is entitled for the increment.

5. Besides placing reliance on the documentary evidence, both the parties led oral evidence in support of their respective claims. The workman examined himself as a witness in support of the claims raised in the statement of claim. One, Shri M.B. Kumbhare, Sr. Manager (Personnel), Newton Sub Area was examined as a witness on behalf of party no. 1. The examination-in-chief of the workman and so also of Shri Kumbhare is on affidavit. The workman and Shri Kumbhare have reiterated the facts mentioned in the statement of claim and written statement

respectively. However, in the cross-examination, Shri Kumbhare has admitted that there are provisions for grant of one advance increment for acquiring additional professional qualification in common coal cadre only and one advance increment had been granted to three employers for passing B.A. examination as per office order dated 28-2-1999 of the Area Personnel Manager, Pench Area and number of other employees have been granted advance increment for passing B.A. Examination by the management of WCL, as per documents W-22 to W-30 and the circular M-1 was issued on 13-3-2001 and the same is applicable from 13-3-2001 and not prior to that.

6. During the course of argument, three objections were raised by the learned advocate for the party no.1 for disentitlement of the workman to get the advance increment. The three objections are (i) The dispute was raised in 2007, though relief sought for relates to the year 2000 and as such, the claim is highly belated and is not maintainable, (ii) B.A. degree is not an additional professional qualification. (iii) The Coal India Limited issued circular dated 13-3-2001, advising all the Subsidiary companies not to grant advance increment to any employee under the provisions of common coal cadre till further decision and the said circular is still in force, so the workman is not entitled for the increment.

7. So far the first contention raised by the learned advocate for the party no. 1 regarding delay in raising the dispute is concerned, it was submitted that in view of the principles enunciated in the decision reported in AIR 2000 SC-389 (Supra), the claim is not maintainable. However, with respect, I am of the view that the said decision has no application to the present case in hand, as because, in the case referred in the decision, seven years after his dismissal from services, the workman raised the dispute, when two other dismissed employees were reinstated by the bank, on the ground of discrimination and the Hon'ble Apex Court considering the facts have been pleased to hold that, "under what circumstances they were dismissed and subsequently reinstated nowhere mentioned- cannot be said that complaint made after laps of 7 years give rise to industrial dispute or that industrial dispute could be apprehended," which is not the case in the present case in hand.

Moreover, in the decision reported in 2001 AIR SCW-2685 (Supra) after taking into consideration the case reported in AIR 2000 SC-839 (Supra) the Hon'ble Apex Court have held that:—

"U.P. Industrial Disputes Act (28 of 1947), S.4-K-Reference -Limitation- Period envisaged by term "at any time" in S-4-K-Terminates with eclipse of Industrial Dispute-Facts showing that conciliation proceedings were not concluded on date of making reference-Thus dispute existed on that day-Referene of dispute by Govt.- Cannot be quashed on ground of long delay.

XX XX XX XX

The above section is almost in tune with section 10 of the Industrial Disputes Act, 1947 and the difference between these two provisions does not relate to the points at issue in this case. Though no time limit is for making the reference for a dispute for adjudication, could any State Government receive a dispute which had submerged in stupor by long lapse of time and re-linked making a reference of it to adjudication? The words “at any time” as used in the section are prime facie indicator to a period without boundary, but such an interpretation making the power unending would be pedantic. There is interest evidence in this section itself to indicate that the time has some circumscription. The words “where the Government is of the opinion that any industrial dispute exists or is apprehended” have to be read in conjunction with the words “at any time”, They are in a way, complementary to each other. The Government’s power to refer an industrial dispute for adjudication has thus one limitation of time and that is, it can be done only so long as the dispute exists. In other words, the period envisaged by the enduring expression “at any time” terminates with the eclipse of the industrial dispute. It therefore, means that is the dispute existed on the day when the reference was made by the Government it is idle to ascertain the number of years which elapsed since the commencement of the dispute to determine whether the delay would have extinguished the power of the Government to make the reference.

Hence, the real test is, was the industrial dispute in existence on the date of reference for adjudication? If the answer is in the negative then the Government’s power to make a reference would have extinguished. On the other hand, if the answer is in positive terms, the Government could have exercised the power, whatever be the range of the period which lapsed since the inspection of the dispute. This apart, the decision of the Government in this regard cannot be listed on the possibility of what another party would think whether any dispute existed or not. The section indicates that if in the opinion of the Government the dispute existed then the Government could make the reference. The only authority which can form such an opinion is the Government. If the Government decides to make the reference there is a presumption that in the opinion of the Government there existed such a dispute.”

8. In the decision reported in (1984) 4 SCC-392 (Workman Employed by Hindustan Lever Ltd. Vs. Hindustan Lever Limited), the three Judges Bench of the Hon’ble Apex Court have held that:—

“Labour and Services- Industrial Disputes Act, 1947- Section 10 and 2(K)- Once a reference is validly made by appropriate Government. Tribunal must adjudicate the dispute on merits- Practice of raising preliminary objections to the reference disapproved.

9. So, applying the principles enunciated by the Hon’ble Apex Court in the decisions mentioned above to

the present case in hand, it can be held that the claim made in the reference cannot be held to be a belated or state claim and is barred by limitation and the claim is to be decided on merit.

10. Moreover, it is clear from the materials on record that the dispute was raised on 29-10-2002, before the Asst. Labour Commissioner (Central), Chhindwara on behalf of the workman by the union. So, it cannot be said that there was delay in raising the industrial dispute. Hence, I find no force in the contention raised by the learned advocate for the party no.1 on that score.

11. The second point raised by the learned advocate for party no. 1 was that B.A. degree is not an additional professional qualification as per para 7.8 of Chapter VII of Common Coal cadre and as such, the workman is not entitled for the increment for obtaining B.A. degree. However, I find no force in the said contention, because from the documents filed by the union and so also from the admission of the witness examined on behalf of party no. 1, it is clear that party no. 1 as per documents Ext. W-9 and Ext. W-10, dated 1-9-1977 had directed to allow one increment to the employees for obtaining B.A. degree and party no. 1 had also granted one increment to other employees for obtaining B.A. degree as per documents W-22 to W-30.

12. The third contention raised by the learned advocate for the party no. 1 was that in view of the circular dated 13-3-2001 of Coal India Limited not to grant advance increment under para 7.8 of Chapter VII of Common Coal Cadre, the workman is not entitled for the increment. It is admitted that the said circular came into existence on 13-3-2001 and is has no retrospective effect. The workman obtained B.A. degree in December, 1999 and he applied for the increment on 21-6-2000. So, the circular of Coal India Limited dated 13-3-2001 has no application to the case of the workman.

In view of the materials on record and the discussion made above, it is found that the workman is entitled to get the advance increment for obtaining B.A. degree from the date of application i.e. 21-6-2000. Hence, it is ordered:—

The action of the management in not granting additional increment to Shri Parikshit Kumar Dutta, LDC on acquiring B.A. degree is illegal and unjustified. The workman is entitled for one additional increment for obtaining B.A. degree from the date of application, i.e. 21-6-2000 alongwith the arrears for grant of such additional increment.

J.P. CHAND, Presiding Officer

नई दिल्ली, 13 जुलाई, 2012

का.आ. 2545.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 23 /2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-7-2012 को प्राप्त हुआ था।

[सं. एल-22012/229/2004-आईआर(सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 13th July, 2012

S.O. 2545.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of M/s. Western Coalfields Limited, and their workman, received by the Central Government on 13-7-2012.

[No. L-22012/229/2004-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT /NGP /23/2005 Date: 4-6-2012.

Party No.1 : The Chief General Manager,
M/s. Western Coalfields Limited,
Umrer Area, Tah- Umrer,
Distt. Nagpur.

Versus

Party No. 2 : Shri Mohd. Tajuddin, General Secretary,
Lal Zanda Coal Mines Mazdoor Union
(CITU), Coal Estate, Civil Lines,
Nagpur - 440 001.

AWARD

(Dated: 4th June, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of WCL and their workman, Shri Mangal Daulat, for adjudication, as per letter No.L-22012/229/2004-IR (CM-II) dated 30-3-2005, with the following schedule:—

"Whether the action of the management of M/s. Western Coalfields Limited in relation to Umrer Area through Chief General Manager, Umrer Area, P.O. Umrer, Nagpur in denying protection of basic wage of Cat.III to Shri Mangal Daulat as it existed on

25-10-1999 while posting him as General Mazdoor in Cat.I is legal & justified? If not, to what relief the workman is entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the Union, "Lal Zanda Coal Mines Mazdoor Union (CITU)," filed the statement of claim on behalf of the workman, Shri Mangal Daulat ("the workman" in short), and the management of the WCL, ("Party No. I" in short) filed its written statement.

The case of the workman as projected by the union in the statement of claim is that the workman was earlier posted as Timber Mistry cat. IV at Kamptee Mine of Nagpur Area and while he was working in Umrer extension of Makardhokda Sub-Area, in the course of his employment in the mines, on 28-12-1996, he sustained injuries in an accident and he remained under treatment for a long period of time and thereafter, he was referred to PPD Medical Board for medical examination and the Board found the workman not to be fit to work underground and recommended for alternative duty on surface and vide office order dated 20-8-1997, the workman was deployed with the same designation and category at Kamptee mine and subsequently his services were transferred to Umrer Area vide office order dated 8-9-1999 with the same designation and category and he was relieved from Kamptee Mine vide office order dated 10-9-1999 and vide office order dated 15-9-1999, the workman was allowed to work on surface with the same designation and category at Murpar project and he was transferred to Umrer Extension from Murpar project vide office order dated 25-10-1999, but after joining at Umrer Extension, the party no. 1 illegally and arbitrarily reverted the workman to the post of General Mazdoor cat. I, without protecting his wages of category IV and made the workman suffer loss of wages and it was stated by the management that such reversion was effected on the basis of the request made by the workman, but conveniently suppressed the fact that due to receiving of injuries by the workman in the accident while on duty, the Medical Board declared him unfit to do underground work and recommended for alternative duty on surface and the workman was initially allowed to draw wages of cat.IV for almost 13 months from December, 1999 to December, 2000 and after the lapse of 13 months, party no. 1 started to pay his wages in the pay scale of cat.I and such reduction of pay of the workman goes against Section 47 of the Persons with Disabilities (Equal opportunities, Protection of Rights and Full Protection) Act, 1995, which postulates that if an employee after acquiring disability is not suitable for the post he was holding, should be shifted to some other post with same pay scale and service benefits and needless to mention that In this legal background, there cannot be any relevance to any written consent to change over to any inferior post perforce given by the workman to remain

in service and even otherwise, the impugned action in reducing the basic pay of the workman, consequent to his transfer on medical advice and administrative grounds is wholly illegal and unjustified and the workman is entitled to pay protection and to receive the pay scale, which he was receiving prior to his transfer.

Prayer, has been made to declare the action of party no. 1 In denying protection of basic wages of the workman as it existed on 25-10-1999 as illegal and to give the workman protection of his pay.

3. The party no. 1 in its written statement has pleaded inter-alia that the dispute is not maintainable in the eyes of law and the claim has been filed with a view to gain unlawful gains and various facts have been concealed by the union and the proceeding is nothing but material suppression of fact and misinterpretation of law and the union has not come with clean hands and on that grounds only, the proceeding is liable to be dismissed and the union is not a recognized union by the management and as such, it has no locus standi to contest the case on behalf of the workman and on that ground also, the reference needs to be answered in negative, being not maintainable and the workman is presently working as a explosive carrier and he met with an accident on 28-12-1996 at Kamptee colliery and due to the accident, he was declared unfit for underground work and the workman was transferred to Umrer Area and posted at Makardhokda project and on the request and consent given by the workman, he was given the work of General Mazdoor on 25-10-1999 and was posted at Murpar and on 28-10-1999, he was transferred to Makardhokda and in his release order, it was clearly mentioned that the post of General Mazdoor was as per the consent of the workman and vide letter dated 21-2-2002 issued by the personal Manager, Makardhokda Sub-Area, the workman was released and posted as explosive carrier and as such, there was no deviation of the services from 1996 and in such circumstances, the complaint filed by the workman is devoid of substance and is liable to be rejected and the re-designation of the workman was done as per his request and not by on its own and as it was a consent posting, additional benefits cannot be granted and as the declaration of the workman was voluntary, principles of Promissory estoppels is applicable in this case and the workman cannot back out from the promise made by him and the workman at the instigation of the union has raised a fictitious claim, which has no significance in the eyes of law and the union has categorically admitted that the conversion was mutual and by the consent of the workman and the conversion is not by the management for administrative exigencies or any other reason whatsoever and in such circumstances, the plea raised by the workman is not tenable in the eyes of law and the said order of reversion has become final and the workman did not challenge the same and on the contrary, he joined in the

new post, in compliance of the said order and thereafter he has been working in the same post and the claim of the workman is a stale claim and the workman raised the dispute for the first time before the ALC sometime in 2004 i.e. after a period of over 3 years and as such, the claim cannot be entertained and the workman is not entitled for any relief.

4. Besides placing reliance on documentary evidence, both the parties led oral evidence in support of their respective claims.

The workman examined himself as a witness in support of his claim. His examination-in-chief is on affidavit. He has reiterated the facts mentioned in the statement of claim, in his evidence. His evidence has remained unchallenged, as on 21-12-2010, to which date the reference was fixed for the cross-examination of the workman, none appeared on behalf of the party no. 1 to cross-examine him and for that “no cross” order was passed.

5. Shri Shailendra Shende, the Senior Personnel Manager of Makardhokda Sub-Area was examined as a witness on behalf of the party no.1. The evidence of this witness is also on affidavit and in his evidence, he has reiterated the facts mentioned in the written statement filed by the party no. 1. However, in his cross-examination, this witness has admitted that the workman sustained injuries while working in Kamptee colliery on 28-12-1996 and the workman was examined by the Medical Board and was declared unfit to work underground and the Board recommended to give him work on surface as per the documents, Exts W-II and W-III respectively. This witness has further admitted that as the Medical Board found the workman unfit to work underground, it was not possible to engage him in underground and by office order dated 15-9-1999, the workman was allowed to work as surface trammer and document, Ext. W - IV is the copy of the said order and the consent of the workman given in writing has not been filed and as the workman was found unfit to work in the underground, management was bound to give work on surface, even if no written consent was given by the workman and from December, 1999 to December, 2000, wages of Timber Mistry, Category IV was paid to the workman and the case of the workman is not a case of conversion from piece rated worker to time rated worker, with the consent of the workman.

6. At the time of argument, it was submitted by the learned advocate for the workman that it is the admitted case that the workman sustained injuries during and in the course of his employment in the mines on 28-12-1996 and after prolonged treatment, he was referred to PPD Medical Board for examination and after examination by the said Board, he was found unfit to work underground and the Medical Board recommended to give him alternative job on surface and though the workman was transferred to Umrer Extension from Murpar vide office

order dated 23/25-10-1999 in his existing designation and category, after joining of the workman at Umrer extension, party no. 1 illegally, arbitrarily reverted the workman to the post of General Mazdoor cat. I without protecting his wages, though the workman was initially allowed to draw wages of cat.IV for almost 13 months from December 1999 to December 2000, but after lapse of 13 months, party no. 1 started drawing his wages in the pay scale of cat.I and such reduction of pay is against the provisions of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and the workman is entitled to get the protection of his wages.

In support of his contentions, the learned advocate for the workman placed reliance on the decisions reported in 2003 SCC (L & S) 482 (Kunal Singh Vs. Union of India) and 2011 (III) CLR 976 (Dhammadip Bhaurao Mankar Vs. Union of India).

7. On the other hand, it was submitted by the learned advocate for the party no. 1 that the reference is based on the order dated 25-10-1999 and the workman for the first time raised the dispute before the ALC in the year 2004 and filed the statement of claim on 15-5-2007, which is hopelessly time barred in view of the various judgments of the Hon'ble Apex Court and Hon'ble High Courts and therefore the same is not maintainable and the re-designation of the workman was done at the request of the workman himself and not by the management and it was a consent posting and as such, principles of promissory estoppels is applicable in this case and the order of reversion became final and the workman did not challenge the same and on the contrary he joined the post without any protest and therefore, the workman is not entitled to any relief and the reference needs to be rejected.

8. So far the submission made by the learned advocate for party no.1 regarding the claim not to be tenable as the same is a very belated claim and the delay in raising the dispute has not been explained is concerned, it is well settled by the Hon'ble Apex Court in the decisions reported in 2001 AIR SCW 2685 (Sapan Kumar Pandit Vs. U.P. State Electricity Board) that

“U.P. Industrial Disputes Act (28 of 1947), S4-K-Reference-Limitation- Period envisaged by term “at any time” in S.4-K-Terminates with eclipse of Industrial Dispute-Facts showing that conciliation proceedings were not concluded on date of making reference-Thus dispute existed on that day - Reference of dispute by Govt.- Cannot be quashed on ground of long delay.

XX XX XX XX

The above Section is almost in tune with Section 10 of the Industrial Disputes Act, 1947 and the difference between these two provisions does not relate to the points at issue in this case. Though no time limit is for making the

reference for a dispute for adjudication, could any State Government receive a dispute which had submerged in stupor by long lapse of time and re-linked making a reference of it to adjudication? The words “at any time” as used in the section are prima facie indicator to a period without boundary, but such an interpretation making the power unending would be pedantic.

There is interest evidence in this section itself to indicate that the time has some circumscription. The words “where the Government is of the opinion that any industrial dispute exists or is apprehended” have to be read in conjunction with the words “at any time”. They are in a way, complementary to each other. The Government's power to refer an industrial dispute for adjudication has thus one limitation of time and that is, it can be done only so long as the dispute exists. In other words, the period envisaged by the enduring expression “at any time” terminates with the eclipse of the industrial dispute. It therefore, means that if the dispute existed on the day when the reference was made by the Government it is idle to ascertain the number of years which elapsed since the commencement of the dispute to determine whether the delay would have extinguished the power of the Government to make the reference.

Hence, the real test is, was the industrial dispute in existence on the date of reference for adjudication? If the answer is in the negative then the Government's power to make a reference would have extinguished. On the other hand, if the answer is in positive terms, the Government could have exercised the power, whatever be the range of the period which lapsed since the inspection of the dispute. This apart, the decision of the Government in this regard cannot be listed on the possibility of what another party would think whether any dispute existed or not. The section indicates that if in the opinion of the Government the dispute existed then the Government could make the reference. The only authority which can form such an opinion is the Government. If the Government decides to make the reference there is a presumption that in the opinion of the Government there existed such a dispute.”

9. In the decision reported in (1984) 4 SCC-392 (Workman Employed by Hindustan Lever Ltd. Vs. Hindustan Lever Limited), the three Judges Bench of the Hon'ble Apex Court has held that:—

“Labour and Services- Industrial Disputes Act, 1947- Section 10 and 2 (K) - Once a reference is validly made by appropriate Government. Tribunal must adjudicate the dispute on merits- Practice of raising preliminary objections to the reference disapproved.

10. So, applying the principles enunciated by the Hon'ble Apex Court in the decisions mentioned above to the present case in hand, it can be held that the claim made in the reference cannot be held to be a belated or stale claim and is barred by limitation and the claim is to be decided on merit.

11. In this case, all most all the facts are admitted by the parties. According to the party no. 1, as the conversion of the workman was done basing on the consent of the workman and such reversion was not challenged, the same has become final and the same is not liable to be challenged.

12. It is necessary to mention here that party no.1 has failed to produce the written consent of the workman for his reversion. This fact has been admitted by the witness examined on behalf of the party no. 1 in his cross-examination. It is clear from the evidence on record that due to the injury sustained by the workman, he was declared unfit to work underground by the Medical Board and the Medical Board recommended to provide light work to him on surface and party no.1 was bound to provide him light duty on surface. Moreover, the two office orders filed by the party no.1 also show that the transfers of the workman were made in his existing/ grade and scale of pay. It is also found from the evidence on record that even after the conversion of the workman as General Mazdoor Cat.I, he was paid wages of Timber Mistry Cat.IV from December, 1999 to December, 2000. The workman was never given any chance of having his say before reduction of his wages.

It is also found that provisions of Section 47 of the persons with Disabilities (Equal opportunities Protection of Rights and Full Participation) Act, 1995 are applicable to the case of the workman.

So, applying the principles enunciated by the Hon'ble Apex Court in the two decisions cited by the learned advocate for the workman to the present case in hand, it is found that the workman is entitled for protection of his basis wages. Hence, it is order :—

ORDER

The action of the management of M/s. Western Coalfields Limited in relation to Umrer Area through Chief General Manager, Umrer Area, P.O. Umrer, Nagpur in denying protection of basic wage of Cat.III to Shri Mangal Daulat as it existed on 25-10-1999 while posting him as General Mazdoor in Cat.I is illegal & unjustified. The workman is entitled to protection of his basic wages as it existed on 25-10-1999 and to get the arrears from January, 2001 and all consequential benefits to be accrued due to protection of his wages.

J. P. CHAND, Presiding Officer

नई दिल्ली, 13 जुलाई, 2012

का.आ. 2546.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 69 /2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-7-2012 को प्राप्त हुआ था।

[सं. एल-22012/397/2004-आईआर(सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 13th July, 2012

S.O. 2546.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 69/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of M/s. Western Coalfields Limited, and their workman, received by the Central Government on 13-7-2012.

[No.L-22012/397/2004-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No.CGIT /NGP /69/2005

Date: 8-6-2012.

Party No. 1 : The Sub-Area Manager,
M/s. Western Coalfields Limited,
Kamptee Sub Area,
PO : Kamptee, Nagpur.

Versus

Party No. 2 : The General Secretary,
Lalzanda Coal Mines Mazdoor Union
Coal Estate, Civil Lines,
Nagpur - 440 001.

AWARD

(Dated: 8th June, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of WCL and their workman, Shri Yuvraj Zibal Meshram, for adjudication, as per letter No.L-22012/397/2004-IR (CM-II) dated 18-8-2005, with the following schedule:—

"Whether the action of the management of M/s. Western Coalfields Limited, Kamptee Sub Area, PO. Kamptee, Distt. Nagpur (M.S.) in dismissing Shri Yuvraj S/o. Zibal Meshram, Genreal Mazdoor from service w.e.f. 14-2-1990 is legal & justified? If not, to what relief is workman entitled ? "

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Yuvraj Meshram, ("the workman" in short), filed the statement of

claim and the management of the WCL, ("Party No.1" in short) filed its written statement.

The case of the workman as projected in the statement of claim is that he was appointed as a General Mazdoor in the year 1980 and was posted to Kamptee Sub Area and in the year 1985, he was appointed as a security guard and his service record was clean and unblemished and there was a report of theft of a gear box from Kamptee workshop on 20-8-1989 and in connection of the said theft, charge sheets were issued against him and two other employees, namely, Arshad Kamal Ansari and Sheikh Ismail Sheikh Mehboob separately and on the basis of the charge sheet issued against him, a departmental enquiry was conducted and the enquiry officer conducted the enquiry in a farcical manner and in utter violation of the principles of natural justice and he was not afforded a reasonable opportunity to defend himself in the enquiry and the findings of the enquiry officer were based on extraneous considerations and not based on facts and the enquiry officer totally failed to apply judicious mind and mechanically drew the conclusions holding him guilty of committing theft of the gear box along with the other two workers named above and on the basis of the enquiry report, the Disciplinary Authority issued the impugned order of dismissal on 13-2-1990 against him.

The further case of the workmen is that out of the three dismissed employees including himself, Shiekh Ismail was reinstated in service with full back wages on 8-2-1996, on the basis of the agreement reached between the management and the union (AITUC) and such reinstatement was subjected to depositing of the entire cost of the gear box alleged to be stolen and accordingly, Sheikh Ismail deposited an amount of Rs. 51,000 with the management towards the cost of the stolen property and from the said facts, it can be safely concluded that the person actually responsible for the theft admitted his guilt by paying the cost of the stolen gear box and in these circumstances, it is wholly illegal and unfair to keep him out of service, while rewarding the guilty person by way of reinstatement.

The workman has prayed for his reinstatement in service with full back wages and all consequential reliefs.

3. The party no. 1 in its written statement has pleaded inter-alia that while the workman was working as a security guard at Regional workshop of WCL, instead of acting in a diligent manner to protect the property of the employer, involved himself in commission of theft, a grave misconduct, resulting issuance of a charge sheet against him and after the charges were proved against him, he was dismissed from services w.e.f. 14-2-1990, as per the order of the Disciplinary Authority and in the past also, the workman was negligent in his duties, for which, he was warned several times and his past record was not clean and the workman in the enquiry had accepted about receipt

of several charge sheet and warning for negligence in duty. The further case of the party no. 1 is that the charge sheet was served on the workman on 2-9-1989 and the workman submitted his reply on 7-9-1989 and in the departmental enquiry, the workman was given due opportunity to defend himself and he was represented by his co-worker and principles of natural justice were duly complied with by the enquiry officer and the acts of the workman were of the nature of involving moral turpitude and management has lost confidence in the workman and the findings of the enquiry officer are based on the evidence on record and the allegations against the worker, Sk. Ismail were minor in nature and he was not the real culprit, but the workman is the Kingpin behind the entire episode and as such, he cannot seek parity with Sk. Ismail. Party no. 1 has also pleaded that the enquiry was completed in 1989 and there is 16 years delay in making the reference and as such, the reference is liable to be dismissed on the ground of delay and laches and the workman is not entitled to any relief.

4. As this is a case of dismissal of the workman from services, after holding of a departmental enquiry, the fairness of the departmental enquiry was taken up for consideration as a preliminary issue and as per order dated 4-11-2008, the departmental enquiry conducted against the workman was held to be vitiated on the ground of non-supply of the copy of the enquiry report to the workman and party no. 1 was allowed to prove the charges against the workman by adducing evidence before this Tribunal.

5. Being aggrieved by the order dated 4-11-2008, party no. 1 filed writ petition no. 4625 of 2009 before the Hon'ble High Court of Judicature of Bombay, Nagpur Bench, Nagpur and the Hon'ble High Court by order dated 16-4-2010, allowed the Writ Petition and quashed and set aside the order dated 4-11-2008 and remanded the case with a direction to decide and dispose of the reference as expeditiously as possible a-fresh.

6. As per the directions of the Hon'ble High Court in WP no.4625 of 2009, the preliminary issue of the validity of the enquiry was taken up for consideration again and by order dated 27-9-2010, the enquiry was held to be not proper and valid, in view of the non-supply of the enquiry report of the enquiry officer as provided under Rules 28.10 of the Certified Standing Orders of Western Coalfields Limited and the case was posted for hearing on the questions of perversity of the findings and quantum of punishment.

7. On 21-11-2010, advocate for the party no.1 filed an application for permission to lead evidence and to prove the charges against the workman. After consideration of the said application, party no. 1 was allowed to adduce evidence to prove the charges against the workman.

8. Before this Tribunal, management examined three witnesses, namely, Vinay Kumar Mishra, Baburao Hiwarale

and Jaggu Rajan Yadav and filed the documents of the departmental enquiry to prove the charges against the workman. The workman examined himself as a witness in rebuttal.

9. The English version of the charges levelled in the charge sheet against the workman in Hindi language are as follows:—

That on 20-8-1989, in the second shift i.e. from 4 PM to 12 night, you were on duty as a security guard in the Auto garage of Kamptee Sub-Area and while you were on duty, you along with Sheikh Ismail S/o. Sheikh Mehboob, driver, who was also on duty in the second shift on that day committed theft of the following auto parts from the Auto garage, the value of which was about Rs. 51,000 (rupees fifty one thousand only) complete assembled gear box set type-GB 40 of Tata Tipper, gear box housing of Jeep and counter shaft of gear box of Tipper. It was also found that on that day at about 11 PM you left the place of your duty and went to the Sub Area office, as a result of which the garage was completely remained unguarded. In this manner, during the period of your duty, you along with the driver on duty committed the theft of the property of the company which amounts to misconduct under clause 17(i) (1) of the Standing orders of the company which deals with Theft, fraud or dishonesty in connection with employer's business or property, under clause 17 (i)(3) , for willful insubordination or disobedience, whether alone or in conjunction with another or others, of any lawful or reasonable order of a superior, under clause 17 (i)(7), for habitual indiscipline, under clause 17 (i)(9) , for causing willful damage to work in progress or property of the employer, under clause 17(i)(16) for leaving work without permission or sufficient reason, under clause 17 (i) (17), for any breach of the Mines Act, 1952, or any other Act or any rules, regulations or by-laws there under, or of any Standing Orders and under clause 17(i)(29) for leaving workplace during duty hours without permission.

10. Before delving into the merits of the matter, I think it proper to deal with the submissions made by the learned advocate for the party no.1 regarding the non-maintainability of the reference on the ground of delay and laches on the part of the workman.

In the written notes of arguments, it was submitted by the learned advocate for the party no. 1 that the present dispute is not maintainable in the eyes of law, as it suffers from delay and laches and is purely a stale claim and the workman was dismissed from service on 13-2-1990 and the reference was made in the year 2005, i.e. almost after 15 years of the dismissal of the workman from services.

In support of such contentions, reliance was placed by the learned advocate for the party no. 1 in the decisions reported in (2006) 5 SCC-433, (U.P.S.R.T.C. Vs. Babu Ram), (2008) 17-SCC-627 (U.P.S.R.T.C. Vs. Ram Singh) and (2005) 5 SCC-91 (Haryana State Coop and Development Bank Neelang.

In the decision reported in (2006)5 SCC-433 (Supra) the Hon'ble Apex Court have held that:—

“S.10-Delay in seeking reference under-Effect-Need for raising industrial dispute within reasonable time-Onus of showing that industrial dispute was reasonable time-Held, no formula of universal application can be laid down for determination of the said question - It would depend on facts of each individual case- It is for workman concerned to show that the dispute was raise within a reasonable time and that he was not responsible for any delay - Courts below must record a finding to this effect, on the basis of materials placed on record by workman-Delay cannot be condoned merely on surmises and conjectures.”

11. In the decision reported in (205) 5 SCC-91 (Supra) the Hon'ble Apex Court have held that:—

“ Industrial Disputes Act, 1947 Ss. 11-A and 11-Discretionary nature of power under-Importance of conduct of workman in grant of relief-Applicability of doctrines of estoppels, waiver, acquiescence and acceptance sub silentio-Moulding of relief-Considerations involved-Power of Supreme Court to legislate of universal rule - Held, there is no proposition of law that once an order of termination is held to be bad in law, irrespective of any other consideration, the Labour Court would be bound to grant relief to the workman - Aim and object of ID Act may be to impart social justice to workman but that by itself does not mean that irrespective of his conduct a workman would automatically be entitled to relief-procedural laws like estoppels, waiver and acquiescence are equally applicable to industrial proceedings-Person in a certain situation may even be held to be bound by the doctrine of acceptance sub silent-Extent to which relief can be moulded will inevitably depend upon facts and circumstances of each case. In absence of any express provision contained in the statute in this behalf, it is not for the Supreme Court to lay down a law which will have universal application - On facts, held, conduct of respondent in approaching the labour court after more than seven years was rightly considered a relevant factor by it in refusing to grant relief to her-Moreover, she had even accepted alternative employment and had been continuing therein for 18 years- The fact that she had filed a Writ Petition within a period of three years, and on withdrawing the same four years later due to the availability of alternative relief before the Labour Court, had raised an Industrial Dispute thereafter, did not render the exercise of discretion by the Labour Court injudicious, arbitrary or capricious-Further held,' having considered the equities between the parties, this was not a fit case where the High Court should have interfered under Art.226 with the discretionary jurisdiction exercised by the Labour Court.”

12. The Hon'ble Apex Court in the decision reported in (2008) 17 SCC-627 (Supra) have held that:—

“A. Labour law- Industrial Disputes Act, 1947- S.10- Delay in raising dispute-Reference of dispute to Labour Court- Delay should not be unreasonable-Delay of 13 years in raising dispute-Held unreasonable-Fact that workman was making repeated representations not sufficient explanation for the delay.”

13. So, now, the present case in hand is to be considered with the touch stone of the principles enunciated by the Hon'ble Apex Court as mentioned above.

On perusal of the materials on record, including the copies of the letters dated 18-7-1991 and 9-10-1999 written by the Asstt. Labour Commissioner, (Central)-I, Nagpur to the Sub-Area Manager, Inder & Kamptee colliery of WCL, the letter of the workman dated 30-10-1992 to colliery Manager, Inder colliery and letter dated 28-6-2004 written by the Lalzanda Coal Mines Mazdoor Union to the sub-area Manager, Inder and Kamptee Colliery filed by the workman, it is found that the industrial dispute was raised by the workman before the ALC on 21-1-1991, soon after his dismissal from services and there was no delay or laches on the part of the workman to raise the dispute and that he was not responsible for the delay in making the reference to the Tribunal. Hence, I find no force in the contention raised by the learned advocate for the party no. 1 that the reference is not maintainable due to delay and laches.

14. In the written notes of argument, it was submitted by the learned advocate for the party no. 1 that in this case, three witnesses have been examined before the Tribunal and in the departmental enquiry, management witnesses, Shri Uke and Shri Humane had stated that on 21-8-1989 at 9 PM, they found the workman in Kamptee town with some motor parts in a tin on a cycle and it is well settled that in the departmental proceeding, strict proof of evidence is not necessary and as such, it can be held that the charges of theft in collusion with other employees is duly proved against the workman.

It was also submitted in the written notes of argument by the learned advocate for the party no. 1 that during the departmental enquiry, the workman in his statement admitted about Sk. Ismail coming with the Tipper/Truck at 7 PM to the garage and then left the garage and that he did not make any entry in the "In- Out register" in that regard, which proves that the workman was not only negligent in his duty, but was also involved in the theft and the claim of the workman that he should be given parity with Sk. Ismail cannot be considered, as he is the main culprit behind the theft and management has lost confidence in the workman.

The further contention raised by the learned advocate for the management is that in the departmental enquiry, management witness no. 4, Yadav had stated that the workman came to the office at 11 PM, leaving his duty place on the date of incident and management witness

no. 5, Vijay had stated about the workman asking him to take charge before the 3rd shift, which shows lack of interest of the workman in the work assigned to him and workman admitted of committing misconducts in the past in the enquiry and the charges before the enquiry officer were duly proved, so the management was right in imposing the punishment of dismissal from service.

15. On the other hand, it was submitted by the learned advocate for the workman that party no. 1 has failed to prove the charges against the workman and the evidence of the three witnesses has no evidentiary value and the evidence of the workman has remained unchallenged and management has failed to prove the charges against the workman and as such, the workman is entitled for reinstatement in service with continuity and full back wages.

16. The learned advocate for the party no. 1 has referred the evidence adduced in the departmental enquiry to hold that the charges against the workman have been proved. However, it is to be mentioned here that as the departmental enquiry conducted against the workman has already been held to be not fair and on the prayer of the party no. 1, permission was accorded to lead evidence to prove the charges before this Tribunal, the evidence adduced in the reference is to be considered to decide as to whether the charges have been proved or not. The record pertaining to domestic enquiry does not constitute fresh evidence or evidence or material on record. Hence, the evidence recorded in the domestic enquiry cannot be considered, while deciding as to whether the management has been able to prove the charges against the workman.

17. So, now it is to be considered as to whether party no.1 has been able to prove the charges against the workman.

Witness, Vinay Kumar in his evidence has stated that on 20-8-1989, he was working as a security sub-inspector in Kamptee sub-area and a theft took place on 20-8-1989 in the garage of party no. 1 and accordingly, a charge sheet dated 2-9-1989 was issued against the workman and charge sheets were also issued against Sheikh Ismail and Arshad Kamal Ansari and he was a witness for the management in all the three enquiries and his statement given in the enquiry be treated as his evidence against the workman in this proceedings. This witness has further stated that on 23-8-1989, he had given a written report to the Sub Area Manager regarding theft of gear box and some other parts from the workshop of Kamptee Sub Area and about apprehension of the workman, Yuvraj and Sheikh Ismail by the police on 22-8-1989 and Ext. M-II is the said report. In his cross-examination, this witness has admitted that the theft was committed in the 2nd shift of 20-8-1989 and he came to know about the theft in the morning on 21-8-1989 and he did not see the workman committing the theft and he

cannot say if any vehicle went to outside from the workshop of the Sub Area between 4 PM to 12 night on 20-8-1989.

18. Witnesses, Waman Baburao and Jaggu Rajan Yadav have stated that the Tribunal directed to give their respective statement on affidavit and they had given them their statements in the enquiry proceedings and they were also cross-examined and their statements in the departmental proceedings be treated as their statements in the present proceedings also. Witness, Waman Baburao in his cross-examination has stated that the theft was committed on 20-8-1989, but he cannot say the time of commission of the theft and he has no personal knowledge about the theft.

Likewise, witness, Jaggu Rajan Yadav in his cross-examination has stated that the workman had come to the Sub-Area office at 10.30 PM and the workman asked his reliever, Bijay Bahadur to take charge of the duty, but Bijay told him to take charge at 12 night.

19. On the other hand, the workman in his evidence has stated that he had been falsely implicated in the theft case and he was not involved in any theft. The evidence of the workman remained unchallenged, as none appeared on behalf of the management to cross-examine him and due to none appearance of anybody from the side of party no. 1 to cross-examine the workman, on 13-3-2012, "no cross" order was passed.

On assessment of the evidence adduced by both the parties, it is found that party no. 1 has failed to prove any of the charges levelled against the workman.

Hence, it is held that the punishment of dismissal from services imposed against the workman is not sustainable. Hence, it is ordered:—

ORDER

The action of the management of M/s. Western Coalfields Limited, Kamptee Sub-Area, PO. Kamptee, Distt. Nagpur (MS) in dismissing Shri Yuvraj S/o Zibal Mesram, General Mazdoor from service w.e.f. 14-2-1990 is illegal and unjustified.

The management of WCL is directed to reinstate the workman, Shri Yuvraj in service with continuity from the date of his dismissal i.e. 14-2-1990. Taking into consideration the facts and circumstances of the case, I do not think it proper to grant full back wages to the workman from the date of his dismissal. Due to the delay in referring the dispute to the Tribunal, I think that payment of 25% of the back wages from the date of his dismissal will meet the ends of justice in this case. So, the management is directed to pay 25% of the back wages w.e.f. 14-2-1990 to the workman. The workman is also entitled to get the consequential benefits, such as, promotion, wage fixation under the N.C.W.A. and annual increments.

Management is directed to implement the directions given in the award within one month from the date of publication of the notification in the Official Gazette.

J. P. CHAND, Presiding Officer

नई दिल्ली, 13 जुलाई, 2012

का.आ. 2547.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. एल. सी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 16/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-7-2012 को प्राप्त हुआ था।

[सं. एल-22012/160/2011-आईआर(सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 13th July, 2012

S.O. 2547.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 16/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of NLC Ltd., and their workmen, received by the Central Government on 13-7-2012.

[No. L-22012/160/2011-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday the 2nd July, 2012

Present: A.N. JANARDANAN, Presiding Officer

INDUSTRIAL DISPUTE No. 16/2012

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Neyveli Lignite Corporation Ltd. and their Workman]

BETWEEN

The General Secretary : 1st Party/Petitioner Union
NLC Pattali Thozhil Sangam
D-10, K.N. Subburaman Salai
Neyveli-607803

Vs.

The Chairman-cum-Managing : 2nd Party/Respondent
Director NLC Ltd.
Neyveli

Appearance:

For the 1st Party/Petitioner Union : Set Ex-parte
 For the 2nd Party/Management : M/s. T. S. Gopalan &
 Co., Advocates

AWARD

The Central Government, Ministry of Labour vide its Order No. L-22012/160/2011-IR(CM-II) dated 20-3-2012 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Management of Neyveli Lignite Corporation Ltd. in proposing the change of increase in working hours in Administrative Office of NLC Ltd. is justified or not? To what relief the concerned workmen are entitled?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 16/2012 and issued notices to both sides. Second Party entered appearance through an Advocate. Notice issued to the First Party was initially returned with an endorsement “Door Locked”. Subsequently second notice issued was duly served and acknowledgement card was received back on 11-6-2012. Despite more than one adjournment was given thereafter petitioner did not enter appearance to proceed with the matter and eventually he has been called absent and set ex-parte.

3. Points for consideration are:

- (i) Whether the action in proposing change of increase in working hours in administrative office of NLC is justified or not?
- (ii) To what relief the concerned petitioner is entitled?

Points (i) & (ii)

4. The petitioner remaining absent and has been set ex-parte. He has not chosen to give any evidence or to appear before this Court to prove his claim. Needless to say it is upon the petitioner to substantiate his case that the action allegedly on proposal for change of increase in working hours in administrative office of NLC is not legal and justified, if it is actually so. When he wishes the Court to be satisfied and made believe that it is so it is for him to discharge that burden which has not been done. The inevitable conclusion is that the action of the management is only legal and justified and he is not entitled to any order in his favour.

5. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 2nd July, 2012)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined

For the 1st Party/Petitioner Union : None
 For the 2nd Party/Management : None

Documents Marked**On the Petitioner's side**

Ex. No.	Date	Description
	Nil	

नई दिल्ली, 13 जुलाई, 2012

का.आ. 2548.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असंसोल के पंचाट (संदर्भ संख्या 1/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-7-2012 को प्राप्त हुआ था।

[सं. एल-22012/21/2009-आईआर(सीएम-II)]
 बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 13th July, 2012

S.O. 2548.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Dalurband Colliery, Pandaveshwar Area of M/s. ECL, and their workman, received by the Central Government on 13-7-2012.

[No. L-22012/21/2009-IR (CM-II)]
 B. M. PATNAIK, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
 INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
 ASANSOL**

Present: SRI JAYANTA KUMAR SEN, Presiding Officer

REFERENCE NO. 01 OF 2010

Parties : The General Secy., K.M.C., Asansol (W.B.)

Vs.

The Agent, Dalurband Colliery, ECL,
 Burdwan (W.B.).

Representatives:

For the Management : Sri P.K. Goswami, Ld.
 Advocate

For the Union (Workman) : Sri Rakesh Kumar, Ld.
 Representative

Industry : Coal

State : West Bengal

Dated - 20-6-12

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of labour vide its letter No.L-22012/21/2009- IR(CM-II) dated 29-12-2009 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Dalurband Colliery, Pandaveshwar Area of M/s. Eastern Coalfields Limited in denying annual increments/SLU etc. at the time of fixation of wages while reinstating Sri Kalu Swain, Tyndal is legal and justified? To what relief is the concerned workman entitled?”

Having received the Order of Letter No.L-22012/21/2009-IR(CM-II) dated 29-12-2009 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 01 of 2010 was registered on 14-1-10 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Sri Rakesh Kumar, Ld. Representative of the Union, submits that the case may be closed as the workman does not want to proceed with the case. So the case is closed and accordingly an order of “No Dispute” is hereby passed.

ORDER

Let an “Award” be and the same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 13 जुलाई, 2012

का.आ. 2549.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. एल. सी. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 19/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-7-2012 को प्राप्त हुआ था।

[सं. एल-22012/162/2011-आईआर(सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 13th July, 2012

S.O. 2549.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of NLC Ltd., and their workman, which was received by the Central Government on 13-7-2012.

[No.L-22012/162/2011-IR(CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Friday the 2nd June, 2012

Present: A.N. JANARDANAN, Presiding Officer

INDUSTRIAL DISPUTE No. 19/2012

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Neyveli Lignite Corporation Ltd. and their Workmen)

BETWEEN

The General Secretary : 1st Party/Petitioner Union
NLC Thozhilalar Ottrumai
Maiyam 36. Haja Lane,
Gangaikondan
Neyveli-607802

Vs.

The Chairman and : 2nd Party/Respondent
Managing Director
NLC Ltd. Neyveli

Appearance:

For the 1st Party/Petitioner Union : Set Ex-parte

For the 2nd Party/Management : M/s T.S. Gopalan &
Co., Advocates

AWARD

The Central Government, Ministry of Labour and Employment vide its Order No. L-22012/162/2011-IR (CM-II) dated 20-3-2012 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Management of Neyveli Lignite Corporation Ltd. in proposing the change of increase in working hours in administrative Office of NLC Ltd. is justified or not? To what relief the concerned workmen are entitled to?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 19/2012 and issued notices to both sides. Respondent entered appearance through his Advocate but the petitioner did not. In spite of further notice also issued to the petitioner he has not appeared to prosecute the claim. Eventually he has been called absent and set ex-parte. No claim or counter statement has been filed.

3. Points for consideration are:

- (i) Whether the proposed change of increase in working hours in the administrative office of NLC is justified or not?
- (ii) To what relief the concerned workmen are entitled?

Points (i) & (ii)

4. The petitioner remaining absent and has been set-exparte. He has not chosen to give any evidence as well by appearing before this Court to prove his claim. Needless to say it is upon the petitioner to substantiate his case. When he wishes the Court to be satisfied and made believe that it is so it is for him to discharge that burden which has not been done. The inevitable conclusion is that the proposed change of increase in working hours in administrative office of NLC is only legal and justified and he is not entitled to any order in his favour.

5. The reference is answered accordingly.

(Dictated to the PA, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 22nd June, 2012)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined

For the 1st Party/Petitioner Union : None

For the 2nd Party/Management : None

Documents Marked

On the Petitioner's side

Ex. No.	Date	Description
	N/A	

On the Petitioner's side

Ex. No.	Date	Description
	N/A	

नई दिल्ली, 13 जुलाई, 2012

का.आ. 2550.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 21 /2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-7-2012 को प्राप्त हुआ था।

[सं. एल-22012/343/2007-आईआर(सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 13th July, 2012

S.O. 2550—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of M/s. Western Coalfields Limited, and their workmen, received by the Central Government on 13-7-2012.

[No. L-22012/343/2007-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT /NGP /21/2008

Date: 20-6-2012.

Party No. 1 : The Chief General Manager,
M/s. Western Coalfields Limited,
Ballarpur Area, Post : Sasti,
Tah, Rajura,
Distt. Chandrapur (MS)

Versus

Party No. 2 : The General Secretary,
Sanyukta Khadan Mazdoor Sangh,
C/o. Sakinala Narsayya, Opp. WCL Guest
House, Post : Sasti, Tah, Rajura,
Distt. Chandrapur (MS)

AWARD

(Dated: 20th June, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of WCL and their 88 workmen, (as per list enclosed) for adjudication, as per letter No.L-22012/343/2007-IR (CM-II) dated 9-7-2008, with the following schedule:—

"Whether the action of the management of Ballarpur Area of M/s. WCL in denying to extend the Transfer Grant and other admissible benefits to their 88 transferred workmen (as per the list enclosed) is legal & justified? To what relief are these workmen entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union, "Sanyukta Khadan Mazdoor Sangh", ('the union' in short), filed the statement of claim on behalf of the 88 workmen and the management of WCL, ('Party No. I' in short) filed its written statement.

The case as presented by the union on behalf of the 88 workmen in the statement of claim is that the 88 workmen as per the list furnished alongwith the letter of reference

were transferred by party no. 1 temporarily from Dhoptala OCM to Gowari OCM and from Gowari OCM to Dhoptala OCM and from Powani OCM to Gowari OCM and from Dhoptala OCM to Ballarpur OCM, without following the mandatory provisions in respect of the transfer benefits and without granting settling leave and other benefits to them and the transfer of the 88 workmen was beyond 33 Kms from the original working place and also from one sub mine to another sub mine and therefore, they were entitled to transfer benefits as per the office circular dated 28-11-1999 and the party no. 1 played tactics not to give the transfer benefits to the said workmen by way of temporary transfer, whereas, there is no provision of temporary transfer in the Standing Orders and as such, the 88 workmen are entitled to the transfer grant and other admissible benefit and the action of the party no. 1 is not justified and they demanded to give the settling leave, transfer grant, 10% HRA and additional transport subsidy to the said 88 workmen, but party no. 1 refused to fulfill the demands, therefore, the industrial dispute was raised before the Asstt. Labour Commissioner (Central), Chandrapur and as no solution came out from the negotiation, failure report was submitted by the ALC to the Central Government and the Central Government have referred the dispute for adjudication to this Tribunal.

The union has prayed for a direction to party no. 1 to give transfer grant, settling leave allowance, 10% HRA and additional transfer subsidy to the 88 workmen.

3. The party no. 1 in its written statement has pleaded inter-alia that the present case does not constitute an industrial dispute as contemplated in section 2-K of the Act, as because, out of the 88 workmen, in respect of whom, the dispute has been raised, only seven workmen are the member of the union, which has raised the dispute and as such, the union is not entitled to represent all the workmen and the union has neither mentioned in the statement of claim as to whether all the 88 workmen (wrongly mentioned as 89 in the written statement) are its members, nor produced any documentary evidence to demonstrate the said fact and the union has not produced any document establishing that they have been empowered and resolved accordingly to espouse and champion the cause of the workmen and on this ground alone, the reference is not maintainable. The further case of the party no. 1 is that the word "transfer" has been loosely used and in fact, there was no transfer, rather it was redeployment of the concerned workmen in the neighboring mines of the same management and Ballarpur Area of Western Coalfields regulates the activities of eight mines including Dhoptala OCM and Gauri area mines and the said mines consist of necessary staff on its roll and due to technical difficulties, excavation of coal in Dhoptala Mine was decided to be stopped by it, as a result of which, the staff working at Dhoptala mine became idle for couple of days and such position was known to all the functioning

trade unions including the present union and it was decided to utilize the idle staff of Dhoptala, by deploying them in Gauri sub area, with a clear understanding that whenever position to extract coal in Dhoptala mine would come in sight, all such redeployed staff shall be brought back to Dhoptala mine and while taking the said decision, care was taken to keep the seniority of all the concerned employees of Dhoptala mine in tact at Dhoptala and not to disturb the same at all, for the purpose of their due promotions/elevation to higher grade and there was no change in their service conditions, except their original place of working and the 88 workmen were working at Dhoptala mine at the time of stoppage of mining activities and there was no work to be provided to them and as it was not possible to retain them in the same mine, they were deployed in neighboring mines within a radius of five miles and in fact, it was not a case of transfer in real sense, as it did not cause any dislocation of their establishment and other facilities at Dhoptala mine and wage bills were also prepared and paid to them at Dhoptala and their all accounts including CMPF and leave were maintained at Dhoptala and as such, the said workmen were not entitled for the benefits arising out of transfer and in this view of the matter, it first came out with a notice dated 31-3-2007, which was conspicuously displayed and while doing the above exercise and keeping in view the interest of the industry, care was taken that salary of all such deployed employees were drawn at Dhoptala only and promotions were given effect to in respect of eligible employees amongst the group of seniority meant for Dhoptala mine only and except change of place of working from Dhoptala to Gauri mine, there was no change in the service conditions and no employee was put to any inconvenience and the workmen have already been put back at their original place of work i.e. Dhoptala mine and therefore, no dispute much less industrial dispute is in existence and the workman are not entitled to any relief.

4. In support of the claim made in the statement of claim, the union has examined Shri Ravi Wadhai, its Secretary as a witness. This witness in his examination-in-chief has reiterated the facts mentioned in the statement in claim. In his cross-examination, this witness has admitted that all the 88 workmen, on whose behalf the dispute has been raised are not members of his union and he cannot say how many of them are members of the union. He has further admitted that due to non availability of working field, the 88 workmen were shifted and deployed in other mines and it was a temporary transfer and though the 88 workmen were transferred to different mines, their establishments were not shifted and they were staying in their respective establishments at Dhoptala and they were paid wages from Dhoptala and the workmen were also promoted from Dhoptala and no documents has been filed to show that the 88 workmen were transferred to places situated beyond 33 kilometers and "Settling leave" means

Joining time and for availing joining time, it is necessary for the employees to apply for the same and no document has been filed to show that the said 88 workmen had filed application for availing joining time or transfer grant and the workmen did not demand individually for payment of HRA at the rate of 10% or the aforesaid four allowances.

No oral evidence has been adduced by party no.1.

5. It is necessary to mention here that on 1-12-2011 and thereafter, no body appeared on behalf of the union and on 16-3-2012, orders was passed to proceed ex-parte against the union.

6. At the time of argument, the learned advocate for the party no. 1 submitted that the reference is vague, as except transfer grant, the other benefits have not been specified and the union is not competent to raise the dispute, as the workmen, on whose behalf the dispute has been raised are not members of the said union and there is no authorization to raise the dispute and it is clear from the evidence of the witness examined on behalf of the union that the concerned workmen had never made any individual claim for the benefits and they had no grievance and the union on its own has raised the alleged dispute without authority and it is clear from the materials on record that due to non availability of work at Dhoptala Mines, the workmen were deployed in other mines and in real sense, it was not a transfer and except the change of place of service, the service conditions were not changed and as per Section 25- E of the Act, an employee could be provided alternative employment within the radius of 8 miles subject to conditions laid down and therefore, the deployment of the concerned workmen within the radius of 5 miles was legal and the workmen are not entitled to any relief.

7. First of all, I will take up the contention raised by the learned advocate for the party no.1 regarding applicability of Section 25- E of the Act. Section 25- E of the Act deals with payment of compensation to a workman who has been laid off and not regarding entitlement or otherwise of transfer benefits by a workman on transfer. Hence, it is found that Section 25-E of the Act has no application to this case.

8. On perusal of the entire materials on record including the pleadings of the parties and evidence of the witness examined on behalf of the union, it is found that in this case, none of the concerned 88 workmen had filed any application to grant the benefits as claimed in the statement of claim by the union, even though submission of such application was necessary. The union has failed to show that the concerned workmen have authorized it to raise the dispute. There is also no legal evidence on record to show that any of the workmen was transferred to another mine from Dhoptala situated beyond 32 Kilometers. It is admitted by the witness examined on behalf of the union

that due to non availability of working field, the workmen were shifted and deployed in other mines and it was a temporary transfer and due to the said transfer, the establishments of the workmen were not shifted and they were staying in their respective establishments at Dhoptala. In view of such admission of the witness, it is clear that though the workmen were deployed to work in the nearby mines of Dhoptal, there was no change in their establishments and they were staying in their respective establishments and as such, they were not entitled to get transfer grant or any other benefit. Hence, it is ordered:—

ORDER

The action of the management of Ballarpur Area of M/s. WCL in denying to extend the Transfer Grant and other admissible benefits to their 88 transferred workmen (as per the list enclosed) is legal & justified. The workmen are not entitled to any relief.

J. P. CHAND, Presiding Officer

ANNEXURE

L-22012/343/2007-IR (C-II)

LIST OF WORKMEN

1. श्री के. बी. काले
2. श्री बी. बी. नगराले
3. श्री टी. एम. थेवले
4. श्री ए. बी. अलमस्त
5. श्री व्ही. डी. बोनगीरवार
6. श्री ए. बी. चौबे
7. श्री आर. एस. येमुल्ला
8. श्री टी. बी. काकडे
9. श्री वाय. टी. निमजे
10. श्री व्ही. डब्ल्यु. राठुड
11. श्री ए. बी. ठाकरे
12. श्री व्ही. एल. वरभें
13. श्री यु. एन. कुंभारे
14. श्री एन. सी. अम्बाडे
15. श्री अब्दुल वहाब
16. श्री बत्तुला रवि लक्ष्मण
17. श्री एन. आर. कुलमेथे
18. श्री डब्ल्यु. के. ठमके
19. श्री एस. टी. उंदीरवाडे
20. श्री जी. डी. रेवतकर
21. श्री रूद्रारप शामसुंदर
22. श्री पी. एस. झाडे

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|------------------------------|------------------------------|
| 23. श्री आर. बी. पिंपलकर | 56. श्री के. खामय्या |
| 24. श्री डब्ल्यु. वाय. चोतले | 57. श्री के. लक्ष्मीनारायण |
| 25. श्री रामय्या शामया | 58. श्री एस. एन. जानवे |
| 26. श्री जी. व्ही. मोहीतकर | 59. श्री एन. जी. वाघे |
| 27. श्री एस. एच. आचार्या | 60. श्री ए. आर. कोडापे |
| 28. श्री बी. एस. गुरुनूले | 61. श्री ए. आर. नागतोडे |
| 29. श्री कासला रामस्वामी | 62. श्री सी. एम. मुसले |
| 30. श्री आर. पी. काटोले | 63. श्री एस. एन. कोरासे |
| 31. श्री आर. डी. सातपुते | 64. श्री एच. आर. बैस |
| 32. श्री आर. एस. चन्ने | 65. श्री टी. व्ही. विहिरगटे |
| 33. श्री पी. जे. गायकवाड | 66. श्री ए. आर. उमाले |
| 34. श्री व्ही. पी. पालकर | 67. श्री रामस्वामी गोंदयालु |
| 35. श्री डी. झेड. डाखरे | 68. श्री पी. पी. राउत |
| 36. श्री ए. एस. राखुंडे | 69. श्री व्ही. पी. वैरागडे |
| 37. श्री जी. जी. दुबे | 70. श्री आर. एन. कातोरे |
| 38. श्री श्रीनिवास काककोडे | 71. श्री व्ही. डी. सालवे |
| 39. श्री एस. व्यंकटस्वामी | 72. श्री चिंताला मोंडय्या |
| 40. श्री ए. के. कातुरे | 73. श्री एन. डब्ल्यु. सोनवने |
| 41. श्री एस. व्ही. वांढरे | 74. श्री भाउराव बारसिंगे |
| 42. श्री बी. के. नाले | 75. श्री सुनिल कलम्बे |
| 43. श्री आर. जी. भोयर | 76. श्री जी. भसारकर |
| 44. श्री डी. यु. वैरागडे | 77. श्री एन. आर. बुरडकर |
| 45. श्री आर. बी. रोहने | 78. श्री व्ही. एल. दांडेकर |
| 46. श्री एस. जी. लांडे | 79. श्री व्ही. के. बावणे |
| 47. श्री पी. आर. येरला | 80. श्री बी. जे. बोभाटे |
| 48. श्री सितम सारंगम | 81. श्री एस. एल. आस्वले |
| 49. श्री एम. व्ही. थरे | 82. श्री निरंजन लिंगय्या |
| 50. श्री एच. एस. कुटे | 83. श्री जी. झेड. पचारे |
| 51. श्री एम. जी. खाटीक | 84. श्री आर. एस. जिलटे |
| 52. श्री ए. एच. खुरगे | 85. श्री आर. आर. सुंदरगिरी |
| 53. श्री डी. एम. बोबडे | 86. श्री भैय्या डहारे |
| 54. श्री एम. बी. बोबटे | 87. श्री पी. बी. इसमपल्लीवार |
| 55. श्री जी. मदनय्या | 88. श्री भोगा प्रल्हाद |

नई दिल्ली, 13 जुलाई, 2012

का.आ. 2551.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 26 /2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-7-2012 को प्राप्त हुआ था।

[सं. एल-22012/15/2002-आईआर(सीएम-II)]

बी. एम. पटनायक अनुभाग अधिकारी

New Delhi, the 13th July, 2012

S.O. 2551.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 26/2003) of the Cent. Govt. Industrial Tribunal-Cum-Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the management of Ballarpur Area of Western coalfields Ltd., and their workmen, received by the Central Government on 13-7-2012.

[No. L-22012/15/2002-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT /NGP/26/2003

Date : 21-06-2012

Applicant : Shri Madan Singh, President,
Koyla Shramik Sabha (HMS),
Qrt. No. 86/4, Ballarpur Colliery,
PO & Tah. Ballarpur, Distt.
Chandrapur (MS).

Versus

Opposite Party : The Chief General Manager,
Ballarpur Area of WCL,
PO & Tah. Ballarpur, Distt.
Chandrapur (MS).

AWARD

(Dated: 21st June, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Western Coalfields Limited and the applicant, Shri Madan Singh, President, Koyala Shramik Sabha (HMS) for adjudication, as per letter No. L-22012/15/2002-IR (CM-II) dated 22-11-2002, with the following schedule :—

"Whether the action of management of Ballarpur area of Western Coalfields Ltd., in converting the loaders of Sasti U/G Colliery Ballarpur U/G Colliery 3 & 4 pits from piece rated category to time rated category (as per list enclosed) resulting in to loss of pay to the concerned workmen without notice u/s 9A is legal and justified? If not, to what relief are the concerned workman entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement, in response to which, the union, "Koyla Shramik Sabha" (HMS) ("the union" in short) filed the statement of claim on behalf of all the 346 workmen, (as per list) and the management of WCL, ("Party No. 1" in short) filed its written statement.

3. Before proceeding further, I think it necessary to mention here that the Central Government as per letter No. 22012/15/2002 dated 22-11-2002 had referred the industrial dispute for adjudication without the list of the 346 workmen. So the union took up the matter with the appropriate authorities and the Central Government vide their letter dated 20-12-2005 referred the dispute with a substituted schedule (furnishing the list of the workmen) for adjudication. It will not be out of place to mention here that the Party No. 1 challenged the addition of list of the workmen with the schedule of reference, before the Hon'ble High Court of Judicature at Bombay, Nagpur Bench, Nagpur in Writ Petition No. 5240 of 2006 and the Hon'ble High Court by order dated 19-12-2006 dismissed the Writ Petition holding that :

"Thus only by adding name of some loaders, the nature of dispute does not undergo any change. The order of reference clearly shows that the Conciliation Officer has tried to conciliate between the parties and submitted failure report. There is no non-application of mind. Writ Petition is thus dismissed. No Cost."

4. The case as projected in the statement of claim by the union is that it is a registered trade union and Party No. 1 is a company owned and controlled by the Central Government and the management of subsidiaries of Coal India Limited are not competent to change the service conditions, wage structure, minimum increase/monetary benefits and seven NCWAs have been signed by the JBCCI and most of the workmen involved in the instant dispute were appointed as piece rated loaders in group-V-A of NCWAs and some of them were appointed even prior to commencement of NCWAs and they were converted as time rated workers in accordance with the requirement of management and exigencies of job, as per the orders of Party No.1 dated 6/7-08-1999, 2/5-09-1999, 27-07-1999, 15-01-1989, 30-07-2000, 18/22-07-2000, 26-02-1999, 1/7-02-1999 and 27-07-1999 as per man power budget, without issuing any notice under Section 9-A of the Act and due to such conversion of the workmen, their wages (basic + SPRA) was reduced and the action of Party No. 1

was illegal and arbitrary and against the statutory provisions of the Act and the benefits granted under the NCWAs and it is clear from the orders of conversion of the workmen that at the time of their conversion, they were not given the benefit of protection of their pay and as per the provisions of clause 21.1 of the Certified Standing Orders, the pay, grade and other conditions of services are not to be disturbed in case of the transfer of a workman to exigencies of work from one coal mine to another or from one establishment/department/section to another and any change of service condition of the workman contrary to the same is illegal. It is further pleaded by the union that due to rapid mechanization of underground mines, by way of introduction of SDL and LHD and due to introduction of voluntary retirement schemes, natural wastage due to death, resignations, accidental death and dismissal, number of piece rated workmen became surplus, whereas, there was shortage of time rated workmen, for which, the piece rated workmen were converted into time rated workmen, as per the decision of the functional Directors of the company and such conversion amounted to transfer and as such, their pay, grade and other service conditions should not have been protected and in South Eastern Coalfields Limited having its Headquarters at Bilaspur (M.P.) while converting the piece rated workers to time rated workers, gave protection of their wages was protected and there was a settlement between the management of WCL and the union, RKKMS (INTUC), Nagpur on 02-11-1992, before the ALC, to give pay protection to the workmen at the time of conversion of the piece rated workman to time rated category and the settlement dated 02-11-1992 is still in operation and the same has neither been amended nor has been withdrawn and in view of the said settlement, basic pay and special piece rate allowance of the 346 workmen have to be protected and on 05-07-1996, management of Chandrapur Area of WCL signed a memorandum of settlement in form No. H with RKKMS union to give protection of group wages and SPRA to 174 piece rated loaders and to pay arrears arising out of such settlement and the 346 workmen are entitled to protection of wages and SPRA.

5. The Party No.1 in its written statement, besides pleading in detail about the illegality and impropriety of making the reference by the government and especially adding the list of 346 workmen to the schedule of reference has pleaded inter alia that in order to regulate and manage the problems of conversion of the loaders from piece rate to time rate policy decisions had been taken by it from time to time, to the full knowledge of the unions and the workers and initially, when the piece rated loaders were being deployed in time rated categories, they were being paid at the initial basic of the time rated categories, irrespective of the reasons of deployment and in 1987, the Addl. CPM vide letter dated 16/19-01-1987 issued guideline in this respect in terms of which the wages of the piece rated loader were to be determined and fixed under different

circumstances and such a decision directive was not protested and the same remained in force for a long time and due to the strike notice served by RKKMS union over several issues including the conversion of piece rated workers to time rated monthly rated posts, a settlement was signed on 02-11-1992 and in the said settlement, the issue of conversion from piece rate to time rate was resolved with certain conditions, but as difficulties were experienced in implementation of the settlement, management decided to terminate the said settlement and issued notice for termination of the same in accordance with law and before taking final action upon the notice, there was discussion, between the management and the union and an agreement was reached on 31-10-1995, whereby the settlement dated 02-11-1992 was modified and intimation of this modification was circulated to all the ALC(C) in whose jurisdiction, the modification was applicable and to all the areas for implementation and this modification was not challenged by any union or worker and after the agreement dated 31-10-1995, all cases of conversion from piece rate to time rate are being regularized in terms of the said agreement and there might be some deviations at some places, due to oversight and error. The further case of the Party No.1 is that vide office orders dated 6/7-08-1989 and 2/5-09-1999, the conversion was done in accordance with the modified settlement and policy decision of the Director (P) and in the orders, the categories and rates of wages which were to be paid to the concerned persons had been specifically indicated and the orders were complied by the workers without protest and if they had any objection, then they could have been put back in to their original job and by office order No. 671 dated 27-07-1999, 18 workmen were converted from piece rated to time rated workers and their case is already pending adjudication in reference case No. 68/2002 and therefore, inclusion of the case of the said 18 workmen in this case is ab-initio void and all the said workmen opted for time rated jobs, where in, they had specifically stated of their not claiming protection of wages and their cases were disposed of in accordance with the modified settlement and they did not raise any objection about their fixation of wages which were specifically mentioned in the office order and workmen at serial nos. 25 to 53 in the list were converted from piece rate to time rate as per office order 202/38 dated 15-01-1989, about 15 to 16 years back and in the said office order, there was specific mention of their wages being fixed in time rated categories, which was never protested and they have been drawing their time rated wages without protest since such a long time and their claim being belated deserves to be rejected and office order 1996 dated 30-07-2000, relates to 95 workmen and in this order, it was mentioned that their group wages and SPRA would be maintained and there is no dispute in regard to these cases and the cases of the workmen as per office order no. 2255 dated 18/22-07-2000 were regularized under the principle evolved in terms of clause 1.4 of the settlement dated

02-11-1992 and they had also opted for time rated jobs and there was no protest from the concerned workmen against their aforesaid conversion and by office order No. 723 dated 26-02-1999/04-03-1999, the conversion of the workmen was made on the basis of attendance in accordance with clause 1.4 of the settlement dated 02-11-1992 and further modification dated 30-10-1995 and in the order, their fixation of pay at the midpoint of the respective categories had been specifically mentioned and the concerned workmen had complied with the office order without any objection and no breach of any law was committed and office order 37/397 dated 1/7-02-1998 was only in the form of an offer and acceptance, but not of actual conversion and therefore, the question of violation of any settlement or rules does not arise and letter no. 1304 dated 27-07-1999 was written by Manager of Wirur Area to Supdt./Manger of Mines, Sasti Colliery furnishing the details of the piece rated loaders, who were converted to time rated categories and transferred to Sasti Colliery and in fact their conversion was not done by the management of Sasti Colliery, to which, the reference relates and therefore, it falls outside the terms of reference and from the analysis of the said office orders, it is noted that the concerned loaders had been converted to time rated categories on different dates and under different background and some of them had been regularized, some had opted and some had expressed willingness to work in time rated categories and in respect of some of them reference is already pending before this Tribunal and some of them had been given wage protection and had all these cases been brought to its notice, during conciliation, it could have examined and answered them suitably and the legal complication could have been avoided and the conversion was made in accordance with the relevent settlement/agreements and policy decisions and there has been no breach of any law or service condition, warranting notice U/s 9. A of the Act and the workmen are not entitled either for protection of group wages or any other relief.

6. It is necessary to mention here that during the pendency of the reference, on 11-07-2011, the learned advocate for the union files a Pursis of no instruction and to allow him to withdraw the power. In view of the pursis and in the interest of natural justice, order was passed to issue notice to the petitioner. In compliance to the said order, notice was sent to the petitioner in his given address by RP with AD, but the notice returned back without service, with endorsement of the Postal Department that the addressee had already left the place. As no other address was available with the Tribunal, on 07-09-2011, order was passed to proceed with the case ex- parte against the petitioner.

7. At the time of argument, it was submitted by the learned advocate for Party No.1 that the burden was on the union to establish their claim but the union did not appear in the reference and did not adduce any evidence

and the union had left the matter halfway and the reference made by the Central Govt. is ab-initio void and invalid, because in respect of some of the workers reference had already been made in reference case No. CGIT 'NGP' 68/2002 and the conversion of the workmen was made in accordance with the settlement dated 31-10-1995 and the policy of the company and there was no contravention of any law and as such, the workmen are not entitled for any relief.

It is well settled that when a party challenges the legality of an order, the burden lies upon him to prove the illegality of the order and if no evidence is produced, the party invoking the jurisdiction of the Court must fail.

In this case, the union has challenged the orders of conversion of the workmen, but no evidence has been adduced to show that the orders were illegal. Hence the reference cannot be answered in favour of the union. Hence it is ordered :

ORDER

The reference is answered in negative. The concerned workmen (as per list attached to this award) are not entitled to any relief.

J. P. CHAND, Presiding Officer

List of following Loaders/workers of Ballarpur Colliery 3/4 pits and Sasti U/G who were converted from piece Rated to Time Rated Catagory.

Sr. No.	Name of Employee	Designation of Which Converted	Catagory
(1) Ballarpur Colliery Office Order-Ref. No. Vekoli/BA/BC/54-A/Hi-725. dt. 6/7-8-1999			
1.	Shri Sharif Ahmmad	H.T.T	IV
2.	Shri Gulab Mithailal	H.T.T	IV
3.	Shri Dabbetla Satya-narayan	H.T.T	IV
4.	Shri Omprakash Dhudnath	H.T.T	IV
(2) Office Order Ref. No. Vekoli/BA/BC/53/Hi-810 dt. 2/5-09-1999			
5.	Shri Kamlaprasad Yadav	Cableman	III
6.	Shri Kamruddin Fakhrudding	Cableman	III
(3) Office Order Ref. No. Vekoli/BA/BC/54-1-A/Hi-671 dt. 27-07-1999			
7.	Shri Anand Madnaiah	Trammer	III
8.	Shri Sunil Laxman Endhuri	Ele. Helper	II
9.	Shri Shivpujan Ramnath	H.T.T.	IV

10.	Shri Bhanji S. Chaple	Cap. Helper	II	47.	Shri Gausmiya Md. Ankush	Gen. Maz	III
11.	Shri Dharampal Sailani	H.T.T.	IV	48.	Shri Premdas Balaya	Gen. Maz	III
12.	Shri Shrinivas Sakal Eram	Trammer	III	49.	Shri Dipchand Durbal	Gen. Maz	III
13.	Shri Sanjay M. Boyniwar	Trammer	III	50.	Shri Lodhi Sahtoo	Gen. Maz	III
14.	Shri Gurjala Lingaiah	H.T.T.	IV	51.	Shri Namdeo Poonam	Gen. Maz	III
15.	Shri Bhanudas Darla Ashalu	H.T.T.	IV	52.	Shri Ramesh Bhadraya	Gen. Maz	III
16.	Shri Balkishan Atmaram	Trammer	III	53.	Shri Shankar Motiram	Gen. Maz	III
17.	Shri Ramesh Jagmohan	Trammer	III	(5) Office Order Ref. No. WCL/BA/BC/54-A/1996 dt. 30-07-2000			
18.	Shri Kirthikumar Murlidar	Expo. Carrier	II	54.	Shri Shiocharan Chunkai	Gen. Maz	I
19.	Shri Ageshwar Sukha	H.T.T.	IV	55.	Shri Bajrangi Daulat	H.T.T.	IV
20.	Shri Kamleshkumar Ramsanjeevan	H.T.T.	IV	56.	Shri Shyamnarayan Nankoo	Cableman	III
21.	Shri Bansilal Lalli	Cableman	III	57.	Shri Bhaiyalal Rami	H.T.T.	IV
22.	Shri Prassannakumar Narayan	H.T.T.	IV	58.	Shri Ramgati Zurl	Gen. Maz	I
23.	Shri Suresh Kumar Swamidin	Gen. Maz	I	59.	Shri Ramjanam Samaroo	Cableman	III
24.	Shri Ramesh Ramilla Venkati	Gen. Maz	I	60.	Shri Angnoo Shibodahan	Cableman	III
(4) Office Order Ref. No. WCL/BC 202/38 dt. 15-01-1989				61.	Shri Ramlal Shionandan	Cableman	III
25.	Shri Ashok Govindrao	Gen. Maz	I	62.	Shri Dinanath Birja	H.T.T.	IV
26.	Shri Ramlal Omprakash	Gen. Maz	I	63.	Shri Surajpal Nathu	Site. Cew	IV
27.	Shri Nakhroo Khichroo	Gen. Maz	I	64.	Shri Ramasre Budhawa	H.T.T.	IV
28.	Shri Sivashankar Chhotelal	Gen. Maz	I	65.	Shri Chunna Subroo	Gen. Maz	I
29.	Shri Rambahadur Lotan	Gen. Maz	I	66.	Shri Indrapal Ramkisan	S.T.T.	IV
30.	Shri Kankaiya Lingloo	Gen. Maz	I	67.	Shri Morodhwaj Mohabat	H.T.T.	IV
31.	Shri Vithal Mallaya	Gen. Maz	I	68.	Shri Baori Faujdar	H.T.T.	IV
32.	Shri Sukhupd. Namdeo	Gen. Maz	I	69.	Shri Rajjan Angnoo	H.T.T.	IV
33.	Shri Shio Basantoo	Gen. Maz	I	70.	Shri Kamta Chunna	S.T.T.	IV
34.	Shri Lalchand Ramnihore	Gen. Maz	I	71.	Shri Vijay Puni	Exp. Carrier	II
35.	Shri Thandaram Brijlal	Gen. Maz	II	72.	Shri Ramgarib Sampat	Cableman	III
36.	Shri Shiodas Guljarilal	Gen. Maz	II	73.	Shri Paltan Sumer	Cableman	III
37.	Shri Engurala Rajeshwar	Gen. Maz	II	74.	Shri Babulal Jagannath	P. Kha	II
38.	Shri Sidhnath Kuware	Gen. Maz	II	75.	Shri Kankutla Odeloo	H.T.T.	IV
39.	Shri Framallu Narsaiah	Gen. Maz	II	76.	Shri Sangala Komaraiah	Cableman	III
40.	Shri Manyah Railingu	Gen. Maz	II	77.	Shri Pitambar Matadin	Gen. Maz	I
41.	Shri Shankar Hasmarkar	Gen. Maz	II	78.	Shri Sugriv Haricharan	Gen. Maz	I
42.	Shri Parasnarayan Sohan	Gen. Maz	II	79.	Shri Ramkrit Zunnoo	Cableman	III
43.	Shri Itwarilal Metheram	Gen. Maz	II	80.	Shri Jagmohan Chunna	H.T.T.	IV
44.	Shri Girdhari Laxman	Gen. Maz	II	81.	Shri Surajdin Dukhi	H.T.T.	IV
45.	Shri Samnaya Mallaya	Gen. Maz	III	82.	Shri Ramlal Chedilal	H.T.T.	IV
46.	Shri Milind Moreshwar Gade	Gen. Maz	III	83.	Shri Rambrich Fulchand	Gen. Maz	I
				84.	Shri Ramji Shiodas	Cableman	III
				85.	Shri Ramdin Mahadeo	H.T.T.	IV

86.	Shri Ramkesh Saideo	Mason	II	127.	Shri Wahabuddin Azmuddin	Gen. Maz	I
87.	Shri Baiju Ramdhani	Mason	II	128.	Shri Ramkripal Baura	H.T.T.	IV
88.	Shri Yenmulla Ralmaloo	Body Sear	II	129.	Shri Nankoo Sukroo	Cableman	III
89.	Shri Anjuri Zumeri	S.T.T.	IV	130.	Shri Bhagwandin Bhairma	H.T.T.	IV
90.	Shri Badri Ramprasad	Gen. Maz	I	131.	Shri Jugilal Chetanpd.	M. Maz	II
91.	Shri Chotelal Deoraj	T. Maz	II	132.	Shri Chedilal Shiomangal	Gen. Maz	I
92.	Shri Pullar Budhu	H.T.T.	IV	133.	Shri Shoshankar Shionayak	Pump. Kha	II
93.	Shri Laxminarayan Motilal	Cableman	III	134.	Shri Babadin Nanku	M. Maz	II
94.	Shri Suresh S. Khandale	Trammer	III	135.	Shri Gajodhar Matadin	S. C	II
95.	Shri Ramsurat Zunoo	Cableman	III	136.	Shri Prahlad Gokul	H.T.T.	IV
96.	Shri Ramdulas Bira	Cableman	III	137.	Shri Munnial Giloni	Trammer	III
97.	Shri Kalloo Rambisal	Gen. Maz	I	138.	Shri Dalmuni Kalloo	H.T.T.	IV
98.	Shri Dukhiram Doman	Driller	IV	139.	Shri Mewalal Shree	Cableman	III
99.	Shri R. B. Jha	Cableman	III	140.	Shri Cheitu Badlu	D. Maz	IV
100.	Shri Matabadal Bhagwat	Gen. Maz	I	141.	Shri Badloo Sewak	B. Searcher	IV
101.	Shri Sadola Darsan	S.T.T.	IV	142.	Shri Nakroo Klichroo	H.T.T.	IV
102.	Shri Sriram Prahlad	H.T.T.	IV	143.	Shri Ramgopal Gopi	Trammer	III
103.	Shri			144.	Shri Kanai Pritam	S.C	II
104.	Shri Srikantpd Rambrich	S.T.T.	IV	145.	Shri Basant Jadu	Cableman	III
105.	Shri Rajaiya Komraiah	Gen. Maz	I	146.	Shri Chandrahit Methoo	Gen. Maz	I
106.	Shri Basudeo Sukroo Yadav	Cableman	III	147.	Shri Prakash Sukhlal	Gen. Maz	I
107.	Shri Ramprasad Sadloo	Cableman	III	148.	Shri Odaya Mallaiah	Gen. Maz	I
108.	Shri Gharbaran Dashrath	S.T.T.	V	(6) Sasti Colliery Office Order Ref. No. WCL/SC/6-F/ 2255 dtd. 18/22-07-2000			
109.	Shri Mallesh Kottur	S.C.	II	149.	Shri Raghunath Vithu Ku	D. Tranner	IV
110.	Shri Rambharose Kalidin	H.T.T.	IV	150.	Shri Kabwala Ramaswamy	Driller	IV
111.	Shri Mukhalal Ram Pd.	S.C	II	151.	Shri Bisal	Inspector	III
112.	Shri Ramkisan Mangriya	S.C	II	152.	Shri Yehnada Pocham Mallaya	Dresser	III
113.	Shri Ashok Shyamlal	H.T.T.	IV	153.	Shri Sham Shoram Channe	Tim. Mazdoor	II
114.	Shri Badalwa Malkoo	Gen. Maz	I	154.	Shri Undeu Matkra	Gen. Maz	I
115.	Shri Sumer Loku	Ash. Maz	III	155.	Shri lunjipelli	Cableman	III
116.	Shri Shardapd. Mathura	Cableman	III	156.	Shri Madgulla Ailava	S. P. Mazdoor	II
117.	Shri Nankawna Ganoshi	Cableman	III	157.	Shri Chandraya Bandel	Body Searcher	II
118.	Shri Isaque Khan	Gen. Maz	I	158.	Shri Chiti Hamnaya	Driller	IV
119.	Shri Bhola Badalwa	H.T.T.	IV	159.	Shri Rameshchandra Bhaggu	Screen Tram	III
120.	Shri Chedu Mitalwala	Site. Crew	IV	160.	Shri Abdul Husain	Driller	IV
121.	Shri Rampal Pachhu	H.T.T.	IV	161.	Shri Ramkisan Chotelal	Cableman	III
122.	Shri Gauri Shankar Sitaram	Cableman	III	162.	Shri Dharampal Kallu Vama	T. R. Maz.	II
123.	Shri Santoo Ramnandan	Gen. Maz	I	163.	Shri Ramashraj Shiomangal	Tub. Pusher	III
124.	Shri Shyamlal Munna	H.T.T.	IV				
125.	Shri Balchand Bandan	Cableman	III				
126.	Shri Ramadhar Zapola	H.T.T.	IV				

164.	Shri Bhola Pannu	Cableman	III	195.	Shri Dasar Tirupathi Mondaya	B. Searcher	II
165.	Shri Ramsaran Wasudeo	Pump. Operator	II	196.	Shri Yelpula Pocham Bondyaloo	Cableman	III
166.	Shri Ansar Ahmad	S. P. Maz.	II	197.	Shri Soddu Lachmaya	Driller	IV
167.	Shri Chandraya Prema	Gen. Maz	I	198.	Shri Madhao Munna	Dresser	III
168.	Shri Odel Madnaya Eraya	Tub. Pusher	III	199.	Shri Chandraya Mallaya	Tub. Pusher	III
169.	Shri Sattaya Sunkar	Driller	IV	200.	Shri Yelpula Rainwillu	H. Trammer	IV
170.	Shri Yellaya Chandraya	S. P. Maz	II	201.	Shri Deshraj Shiosabaya	Cableman	III
171.	Shri B.H. Walke	Driller	IV	202.	Shri Ramsanehi Maiku	Gen. Maz	I
172.	Shri Sudhakar T. Channe.	Pump. Optr.	II	203.	Shri Ramesh Keshao Rani	Tub. Pusher	III
173.	Shri Junjipelli Ralnarsu	Trammer	III	204.	Shri Mahadeo V. Kude	Cableman	III
174.	Shri Shankar Bhandari	S. P. Maz	II	205.	Shri Raimallu Rajan	H. Trammer	IV
175.	Shri Wasudeo Ramaji	Driller	IV	206.	Shri S. V Gurnule	Cableman	III
176.	Shri Kisan Dadaji	Tub. Pusher	III	207.	Shri Bandi Yenkat Narsa	H. Trammer	IV
177.	Shri Chotepal Hublal	Cableman	III	208.	Shri Jamunaprasad Ramsajiwani	Cableman	III
178.	Shri Vilas Madhukar Sakinala	Cableman	III	209.	Shri Nathu Shital	Cableman	III
179.	Shri Rainarsu Railingoo	Tim. Maz	II	210.	Shri Kamta Garibdas	Cableman	III
180.	Shri Farzan Nizamuddin	Exp. Carrier	II	211.	Shri Darshrath Sunkar Ramaya	Cableman	III
181.	Shri Dandu Yeshwant Yele	Cableman	III	212.	Shri Ande Rajelia Pocham	Gen. Maz	I
182.	Shri Jainath Dishambar	Cableman	III	213.	Shri Deokumar Lala	H. Trammer	IV
183.	Shri Parma Shama Dubber	Exp. Carrier	II	214.	Shri Krishana R. Yadao	Roof Stit Crew	IV
184.	Shri Janardhan R. Jiwne	Cableman	III	215.	Shri Prakash Ramaswamy	Trim. Maz	II
185.	Shri Bairu Laxman	Cableman	III	216.	Shri Ramadhar S. Tandan	Fan Operator	II
186.	Shri Dhansraj Sadashio Thamke	S. P. Maz	II	217.	Shri Ramsaran Ganayam	Roof Stit Crew	IV
187.	Shri Landu Ganpat Itankar	Tub. Pusher	III	218.	Shri Bigau Basant Timal	Expl. Carner	II
188.	Shri Tarachand K. Pendor	Cableman	III	219.	Shri Witenera Patkula	Line. Maz.	II
189.	Shri Mukunda Sitaram Jiotode	Cableman	III	220.	Shri Kade Mallesh Sattaiah	Gen. Maz	I
190.	Shri Parshuram Sanupa	Cableman	III	221.	Shri Shrinivas Narsaiah Bijari	Line. Maz.	II
191.	Shri Ramesh Jairam Bele	S. P. Maz	II	222.	Shri Banthu Venkataswami Narsaiah	Trim. Maz	II
192.	Shri Jagatpal Rampal	Pump Optr.	II	223.	Shri Gopal Sukhdeo Pandey	Exp. Carrier	II
193.	Shri Kisan Raoji Wadaskar	Tub. Pusher	III				
194.	Shri Dilip Shamrao Itankar	S. P. Maz	II				

224.	Shri Shekh Mukhtiyar Peergulab	Trim. Maz	II	248.	Shri Pol Ramdoo Yenkat	Gen. Maz.	I
225.	Shri Gotte Rajeshwar Bhumaiah	Trim. Maz	II	249.	Shri Madhao Munna	Dresser	III
226.	Shri Raselli Komralah	Tub. Pusher	III	250.	Shri Chandraya Mallaya	Tub. Pusher	IV
227.	Shri Digutla Mallaiah	Trim. Maz	II	251.	Shri Yelpula Raimallu Nataya	Hau. Tram	IV
228.	Shri Regula Chandra Reddy	Pum. Operator	II	252.	Shri Samudrala Lachma	Dresser	III
229.	Shri Kolluri Ramesh	Tub. Pusher	III	253.	Shri Desraj Shosahay	Cableman	III
230.	Shri Narottamsigh Sundersingh	Surve. Maz.	II	254.	Shri Ramsanchi Maiku	Gen. Maz	I
231.	Shri Shankar Girgule	S. P. Maz	II	255.	Shri Ramesh Keshao Raut	Tub. Pusher	III
232.	Shri Shankar Ramaswami Raola	Elect. Helper	II	256.	Shri Mahadeo Vishwanath Kude	Cableman	III
233.	Shri Sanjay Manik Dasarwar	Helper	II	257.	Shri Onkarsingh Shankarsingh	Tim. Maz.	II
234.	Shri Balaji Shrawan Pimpalkar	Dresser	III	258.	Shri Pullur Durgayya	Tub. Pusher	III
235.	Shri Errandula Sarraaya	Pump. Operator	II	259.	Shri Raimallju Rajam	Hau. Tram.	IV
236.	Shri Gunti Sampathi Rainarsu	Tub. Pusher	III	260.	Shri Dontamalla Rajam Lachmaya	Tub. Pusher	III
237.	Shri Mansingh Lalbua	Gen. Maz	I	261.	Shri Karke Shrinivas Reddy	S. P. Maz.	II
238.	Shri Mangali Shankaraiah	Cableman	III	262.	Shri S.V. Gurnule	Cableman	III
239.	Shri Pol Ramdoo Yenkat	Gen. Maz	I	263.	Shri Bandi Yenkatnarsa Ramaya	Rau. Tram	IV
240.	Shri Rampyare Shiodayal	Roof Stif. Crew	IV	264.	Shri Nirwatla Kistaya Pocham	Rau. Tram	IV
241.	Shri Ramesh Fakroo Sao	Line Maz.	I	265.	Shri Jamuna Prasad Ramsajiwan	Cableman	III
242.	Shri Ramasajiwan Ramaotar	Cableman	III	266.	Shri Rampayare Shodayal	Roof Stif. Maz.	IV
243.	Shri Shalikrao Kashinath	Pump. Optr.	II	267.	Shri Nathu Sheetal	Cableman	III
(7)	Office Order Ref. No. WCL/SC/6-E/723 dtd. 26-02-1999			268.	Shri Kamta Garib Das	Cableman	III
244.	Shri Kamtam Bhumaya Pocham	Cableman	III	269.	Shri Dashrth Sunkar Ramaya	Cableman	III
245.	Shri Donta Rajam Balaya	S. P. Maz.	II	270.	Shri Ande Rajuvella Pocham	Gen. Maz	I
246.	Shri Yelpula Pocham Bondiyaloo	Cableman	III	271.	Shri Ramaswaroop Mahadeo	Cableman	III
247.	Shri Boddu Lachma Pocham	Driller	IV	272.	Shri Mathamg Yellaya	Singleman	IV
				273.	Shri Deokumar Lala	Hau. Tram.	IV
				274.	Shri Erki Banayya	Tim. Maz.	III

(8) Office Order Ref. No. WCL/SC/37/397 dt. 1/7-02-1998				300.	Shri Devidas Nago Nale	Gen. Maz	I
275.	Shri Shankar Kashinath Bhandari	Gen. Maz	I	301.	Shri Erki Banaya Kistaya	Gen. Maz	I
276.	Shri Sharad Bakloo Reddy	Gen. Maz	I	302.	Shri Mangal Shankaraiah Lingloo	Gen. Maz	I
277.	Shri Ganesh Bhandari	Gen. Maz	I	303.	Shri Ramkewal Gourishankar	Gen. Maz	I
278.	Shri Deokumar Lala	Gen. Maz	I	304.	Shri Sudesh Rajam Junjipelli	Gen. Maz	I
279.	Shri D. R. Shende	Gen. Maz	I	305.	Shri Ramdas Mahakali Boyani	Gen. Maz	I
280.	Shri Ramchandra Maroti Itankar	Gen. Maz	I	306.	Shri Dharam Narayan Rambhagam Kewat	Gen. Maz	I
281.	Shri Nathu Namdeo Zade	Gen. Maz	I	307.	Shri Ashok Hiranman Petkar	Gen. Maz	I
282.	Shri Suresh Vishwanath Kale	Gen. Maz	I	308.	Shri Shankar Laxman Bobde	Gen. Maz	I
283.	Shri Ankush Lachmayya Barre	Gen. Maz	I	309.	Shri Odayya Durgayya (Transfer to Wirur SA)	Gen. Maz	I
284.	Shri Dhanraj Sadashio Thamke	Gen. Maz	I	310.	Shri Ramesh Sunkar Pocham	Gen. Maz	I
285.	Shri Dadaji Vasudeo Atkare	Gen. Maz	I	311.	Shri Ramsajiwan Ramautar	Gen. Maz	I
286.	Shri Devidas B. Dewalkar	Gen. Maz	I	312.	Shri Gajula Odayya	Gen. Maz	I
287.	Shri M.S. Jiotode	Gen. Maz	I	313.	Shri Rodda Ramswamy Mallaya	Gen. Maz	I
288.	Shri Anil Madhukar Deshpandey	Gen. Maz	I	314.	Shri Tandra Mallaya Rajam	Gen. Maz	I
289.	Shri Dilop Dhondur Mathankar	Gen. Maz	I	315.	Shri Shankar Waghu Girgule	Gen. Maz	I
290.	Shri Manoj Mondri	Gen. Maz	I	316.	Shri Pol Ramdoa Yenkat	Gen. Maz	I
291.	Shri Amarsingh Ballusingh Rathod	Gen. Maz	I	317.	Shri Raola Ramaswamy	Gen. Maz	I
292.	Shri Yeshwant Kisan Bhongre	Gen. Maz	I	318.	Shri Shalikram Motiram	Gen. Maz	I
293.	Shri Kankutla Mondri	Gen. Maz	I	319.	Shri Shersingh Vishnu Chouhan	Gen. Maz	I
294.	Shri Tirupathi Bapurao	Gen. Maz	I	320.	Shri Jillala Raimalla Rajaya	Gen. Maz	I
295.	Shri Poonam Chand Ramnath	Gen. Maz	I	321.	Shri Santosh Kumar Krishnarao Amleshwar	Gen. Maz	I
296.	Shri Inayat Hussain	Gen. Maz	I	322.	Shri Gunti Sampathi Rainalu	Gen. Maz	I
297.	Shri Chintala Mallesh Rajaya	Gen. Maz	I				
298.	Shri Kisan Raoji Wadaskar	Gen. Maz	I				
299.	Shri Dilip Shamrao Itankar	Gen. Maz	I				

323.	Shri Kolluri Ramdeo Yenkau	Gen. Maz	I
324.	Shri Rajkumarprasad Ramdas	Gen. Maz	I
325.	Shri Rampyare Shrodayal	Gen. Maz	I
326.	Shri Bhurra Komaraiyeq	Gen. Maz	I
327.	Shri Pocham Raimallu		
(9)	WIRUR Office Order Ref. No. WCL/BA/WR/SOM/1304 dt. 27-07-1999 (Transfer for Wirur)		
328.	Shri Bantu Venkatswamy	Trim. Maz.	II
329.	Shri Bigau Timmar	Carrier	II
330.	Shri Gopal Pandey	Carrier	II
331.	Shri Kade Mallesh	Mate	I
332.	Shri Kamlesh Shriwas	Driver (T)	II
333.	Shri Kolluri Ramesh	Trammar	III
334.	Shri Krishna Yadao	Stiching	IV
335.	Shri Narottam Singh	Survey Maz.	II
336.	Shri Ramadhar Tandan	Sub Station/F/O	II
337.	Shri Ramsaran Gangaram	Stiching	IV
338.	Shri Raseli Komrraya	Trammer	III
339.	Shri Regula C. Reddy	Pump Khalasi	II
340.	Shri Shalirao Pendor	Pt.	II
341.	Shri Sk. Mukthiyar	Timber Maz.	II
342.	Shri Suresh Meshram	Peon	I
343.	Shri Gotte Rajeshwar	Tim. Maz	II
344.	Shri Jeetendra Patkula	Line. Maz.	II
345.	Shri Prakash Ramaswamy	T/Maz.	II
346.	Shri Shriniwas Bojari	Line. Maz.	II

नई दिल्ली, 13 जुलाई, 2012

का.आ. 2552.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 278/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-7-2012 को प्राप्त हुआ था।

[सं. एल-22012/31/1999-आई आर(सी-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 13th July, 2012

S.O. 2552—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 278/99) of the Central Government Industrial Tribunal-Cum-

Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 13-7-2012.

[No. L-22012/31/1999-IR (C-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/278/99

Present : SHRI MOHD. SHAKIR HASAN, Presiding Officer

General Secretary,
BKKMS (BMS), PO Parasia,
Distt. Chhindwara,
Chhindwara

. . . Workman

Versus

Chief General Manager,
WCL, PENCH Area, PO Parasia,
Distt. Chhindwara (MP)
Chhindwara

. . . Management

AWARD

Passed on this 14th day of June 2012

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/31/99-IR(CM-II) dated 3-8-99 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of WCL, PENCH Area i.e. General Manager, WCL, PENCH Area, PO Parasia, Distt. Chhindwara (MP) in not regularizing Shri Santosh Kumar Rajput as Headpeon of G. M. Office, WCL, PENCH Area is justified? If not, to what relief the workman is entitled?”

2. The case of the workman/Union in short, is that the workman Shri Santosh Kumar Rajput is appointed as a peon in General Manager's office, PENCH Area. The Head Peon was elevated to other cadre in the 1994 and the post became vacant. He was authorized to officiate the post of Head peon vide office order No. WCL/PENCH/P/139/273/95 dated 16-20/1/1995 issued by the Dy. Chief Personnel Manager, PENCH Area when he completed 240 days on the officiating post, he gave representation dated 23-12-95 to the Personnel Manager to regularize him on the said post but no action was taken and instead he was allotted shift duty without withdrawing the officiating post. It is submitted that the management be directed to regularize on the post of Head Peon with payment of difference of pay and other incidental benefits.

3. The management appeared in the case and filed the Written Statement in the reference case. The case of the management, inter alia, is that admittedly Shri Santosh Kumar Rajput was appointed as a peon and posted at Manager's office, WCL, Pench Area. It is denied that he worked as a Head Peon. It is stated that several peons were working as peons. The peon posted in the office of Manager were given shift duties. The workman and Shri Mahendra Prasad Soni were also given shift duties in the office of the Manager. The workman cannot claim for regularization to the post of Head peon as he had never worked on the said post. He was junior to many of the peons and therefore he cannot be promoted/regularized to the post of Head peon superseding the seniors. It is submitted that the workman is not entitled to any relief.

4. On the basis of the pleadings of the parties, the following issues are for adjudication—

I. Whether the action of the management in not regularizing the workman as Head peon of G.M. Office, WCL, Pench Area is justified?

II. To what relief the workman is entitled?

5. During the pendency of the reference, the workman/Union became absent. Sufficient dates were given to contest the reference. Lastly the then Tribunal proceeded the reference exparte against the workman on 17-4-07.

6. Issue No. I

To prove the case, the management has examined oral evidence. The management witness Shri Abdul Hakeem is working as Personnel Manager. He has stated that there are 22 peons working in the office of the General Manager and 13 peons are senior to the workman. He has stated that Promotion/regularization is given as per guidelines of the company and seniority is to be taken into account. He has further stated that the promotion/regularization cannot be given to the workman superseding the seniors. There is nothing to show that simply on officiating the post of Head peon, he creates entitlement to be promoted/regularized on the said post. He has denied in his evidence that he worked as Head peon. It appears that there is no evidence that he was senior most in the cadre of peon rather the evidence shows that 13 peons are senior to the workman. I find that the action of the management in not regularizing the workman as Head peon is justified. This issue is decided against the workman and in favour of the management.

7. Issue No. II

On the basis of the discussion made above, it is clear that the workman was junior to many of the peons and therefore he was not entitled to be regularized on the post of Head Peon. This shows that the workman is not entitled to any relief. The reference is accordingly answered.

8. In the result the award is passed without any order to costs.

9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 13 जुलाई, 2012

का.आ. 2553—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एच.ए.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, संख्या-1, मुम्बई के पंचाट (आईडी संख्या 30/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-7-2012 को प्राप्त हुआ था।

[सं. एल-42012/26/2003-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 13th July, 2012

S.O. 2553.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 30/2004) of the Cent. Govt. Industrial Tribunal-cum-Labour Court No.1, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of M/s. Hindustan Aeronautics Limited, and their workmen, received by the Central Government on 13-7-2012.

[No. L-42012/26/2003-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

Ref. No. 30/2004

Dated 7-6-2012

Mr. V. H. Jadhav, Adv. present for the management.

Mr. J. P. Sawant, Adv. present for the workman.

Learned counsel for the second party workman has filed an application stating therein that the second party workman prays that this reference be disposed of for want of prosecution.

Heard.

As per the prayer of the second party workman the reference stands disposed of for want of prosecution and it is held that the second party workman is not entitled to any relief.

Award is passed accordingly.

Sd./-illegible

(Presiding Officer)

नई दिल्ली, 19 जुलाई, 2012

का.आ. 2554.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा मैसर्स सेन्ट्रल कॉटेज इंडस्ट्रीज कॉर्पोरेशन ऑफ इंडिया लिमिटेड के कारखानों/स्थापनाओं (सभी इकाइयों) के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, अधिसूचना के जारी किए जाने की तारीख से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात् :-

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;
 - (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
 - (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
 - (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या

(iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा :-

- (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा
 - (ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या
 - (ग) प्रधान या आसन्न नियोजक की, उसके अधिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या
 - (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;
 - (ङ) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।
6. विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/13/2011-एस.एस.-I]

नरेश जायसवाल, अवर सचिव

New Delhi, the 19th July, 2012

S.O. 2554.—In exercise of the powers conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of M/s. Central Cottage Industries Corporation of India Ltd. (All Units) from the operation of the said Act. The exemption shall be effective from the date of issue of this Notification for a period of one year.

2. The above exemption is subject to the following conditions namely :—

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register

- showing the name and designations of the exempted employees;
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
 - (3) The contributions for the exempted period, if already paid, shall not be refundable;
 - (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees State Insurance (General) Regulations, 1950;
 - (5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of :—
 - (i) Verifying the particulars contained in any returned submitted under sub- section (1) of Section 44 for the said period; or
 - (ii) Ascertaining whether registers and records were maintained as required by the Employees State Insurance (General) Regulations, 1950 for the said period; or
 - (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind. being benefits in consideration of which exemption is being granted under this notification; or
 - (iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to :
 - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
 - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
 - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or
 - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
 - (e) exercise such other powers as may be prescribed.
 6. In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/13/2011-SS-I]

NARESH JAISWAL, Under Secy.